

**TITLES V AND X OF THE WATER RESOURCES
DEVELOPMENT ACT OF 1983**

HEARINGS
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
NINETY-EIGHTH CONGRESS
SECOND SESSION

TO RECEIVE COMMENTS ON TITLES V AND X OF THE WATER
RESOURCES DEVELOPMENT ACT OF 1983

JANUARY 24 AND 25, 1984

Printed for the use of the Committee on Environment and Public Works



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TITLES V AND X OF THE WATER RESOURCES DEVELOPMENT ACT OF 1983

TUESDAY, JANUARY 24, 1984

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES,
Washington, D.C.

The subcommittee met at 9:45 a.m. in room SD-406, Dirksen Senate Office Building, Hon. James Abdnor (chairman of the subcommittee) presiding.

Present: Senators Stafford, Abdnor, Randolph, and Baucus.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABDNOR. The Subcommittee on Water Resources will come to order.

On November 18 of this past year the Committee on Environment and Public Works reported to the Senate S. 1739, the Water Resources Development Act of 1983. Title V of this legislation addresses the need for the authorization of new projects on the inland navigation system that sets a ceiling on the annual obligation which may be made on the system without collecting additional funds from system users and establishes a Users Advisory Board to insure that those who benefit from the inland navigation system have a voice setting the annual inland system expenditures.

Title X of this legislation addresses cost sharing for and authorizations of deep draft navigation projects.

At the time the committee was reporting this legislation I agreed to hold 2 days of hearings at the start of this session to allow specific public comments to be made on these two titles of S. 1739. The provision of these two titles were compromise proposals the committee developed in light of the many hearings addressing cost-sharing and user fees that we have reviewed over the past three years.

Let me say this: We have had many meetings and the only reason I called this meeting after the bill was reported was because we tried to be as fair as possible. If anyone in this room was following at that time, they will remember that I agreed to have this meeting principally to let the people who were directly involved have one more opportunity to comment. It was not intended to start on one end of this bill and go to the other. I am a little disappointed to see this long, long list of witnesses; the farm groups, the coal people, the barge people. I said don't come in here unless you

give me some constructive alternatives. I don't want to hear anyone come in here and complain that they can't live with that. If you are going to tell me that, you have to tell me what you have as an alternative or I won't even hear from you. It is that simple. I don't intend to go into the environmental issues or anything else. I came here to see if we made some mistakes after 3 years of hearings.

I realize that some waterway users couldn't get their groups together in time and that is why I am having this meeting. It is no great luxury to hold hearings like we have today at the start of the session. We are crowded for time. Unfortunately, I am not going to be able to ask a lot of questions because I have a very heavy schedule starting at 12 o'clock. So if we don't ask you a lot of questions today, I am reserving the right to submit questions to you in writing and later on I may even meet separately with people because I want to be fair. I want a good program. We are going to have one. That I want you to know.

Thank you.

I felt this was important enough to let everyone come in here and make their statements.

The first witness today will be Senator Denton and Senator Heflin and we are also going to have Mr. Bory Steinberg, Chief, Program Division, Corps of Engineers. The committee has requested that Mr. Steinberg testify as a technical witness in order to place in the record the technical derivation of the \$646 million cap contained in title V of S. 1739.

With that I am going to call on Senator Denton who I know is here. Is Senator Heflin in the group? Good. If you would come forward, I would appreciate it, gentlemen. I welcome you gentlemen to the meeting. I couldn't think of two finer people who could start it off.

STATEMENT OF HON. JEREMIAH DENTON, U.S. SENATOR FROM THE STATE OF ALABAMA.

Senator DENTON. Thank you, Mr. Chairman.

Senator Heflin, the senior Senator from our State, has been kind enough to offer me first go because I had something to do with getting this hearing set up.

Mr. Chairman, members of the Senate Environment and Public Works Committee, Subcommittee on Water Resources, I want to thank you for allowing us the privilege of appearing before your subcommittee today. I want to acknowledge personally, Mr. Chairman, the conscientious, thorough, considerate way in which you have undertaken your examination of all of the issues respecting Alabama-connecting waterways. I am not sure everyone in this room knows that in the interest of hearing from those who would be most affected, you came the length of the waterway to Mobile, Ala., to conduct a hearing and listen to the impact as felt by those who would be impacted regarding some of the schemes for cost recovery on the waterway.

It is not my intent to address that subject today but rather to address your approval on the replacement of the Oliver lock and dam and the Warrior-Tombigbee at Tuscaloosa. It is my recollection

tion that you were, in my view, again properly concerned enough not to take care of it last year because you thought it necessary that the Corps of Engineer approval come first. And that is why I am here today because that has taken place.

For your information, sir, on my far left is Mr. Offa Nichols, the Director of the Warrior-Tombigbee Development Authority, and the staffer on my immediate left, Mrs. Teressa Miller, who handles this for me on my staff. In my own State of Alabama, we are blessed with strategically located navigable waterways and the busiest of them is the Warrior-Tombigbee which flows from the coal-rich Warrior Basin in northwest Alabama through its industrial heartland around Birmingham, south to the Port of Mobile.

The Warrior-Tombigbee waterway now has a system of modern locks and dams with the exception of one lock. William Bacon Oliver is the name of that lock, while prior to the 1970's, the waterway had been upgraded in a generally efficient manner. We now have a new set of circumstances and an even more increasing worldwide demand for energy and food.

Mr. Chairman, that demand will continue to grow. On the energy side, some estimates indicate that 10 percent of our Nation's coal reserves are located in the Warrior Basin. Almost 80 percent of the coal traffic handled by the Port of Mobile arrives there by barge from the Warrior Basin and over 4 million tons of coal move via this waterway to the electric generating plants in our area. We have a number of large and experienced mining operations in the area as well as other capable of substantial growth.

Development of these coal reserves, skills, and experience of our people and the growing worldwide demand have created new demands on the waterway. As to food, farmers from 21 Alabama and Mississippi counties ship their grain to Mobile for export via the waterway. Several thousand American farm families are dependent on the waterway for efficient transportation of their products.

Alabama has the Nation's largest cash crop of soybeans. There are many other commodities. I won't go through the list. I am aware that you are familiar with them.

I would invite to your attention the fact that in Alabama, shipments of ore, steel, and related products are expected to more than triple by 1985 because of some new and modern manufacturing capabilities recently incorporated in our steel production facilities. Confidence in the waterway and in its efficiency and modernization were important in the United States Steel's recent decision, for example, to reactivate and further modernize their Fairfield facilities which was really a big deal in my State since, as you know, the steel industry was depressing progressively and the unemployment situation in Birmingham area was one of the worst in the entire United States.

It may have been the worst at one time. This efficiency and reliability which they depend upon in making their investment will be significant factors in the competitiveness of the facilities which they have just invested in.

Thousands of jobs hang in the balance critical to an area with unemployment among the highest in the Nation. Our State, as you know, was second to Michigan for many, many months. We are starting to improve because partly of the improvement in the steel

picture. We hate to see that aborted by this serious barge traffic problem. We have taken interim steps to ameliorate the situation and allow traffic growth to continue but there are practical limits to these temporary improvements and I wouldn't be coming to you, Mr. Chairman, if I didn't believe that the benefit-cost ratio didn't prove that they were worthwhile.

In conclusion, Mr. Chairman, I think the country and you are right in the middle of this, in my view, are doing a very fair job. I want to commend you for your—as I opened with thoroughness and I believe fairness in the way you are looking at this. It is complex, particularly the other issue of revenue cost recovery which I am not going to deal with this morning but I do want to commend you for what I know to have been a lot of sweat, blood, and tears on this subject.

The general statement could be made that we will have to continue to upgrade and maintain competitive waterways in order to be competitive in terms of export and import for that matter and to provide insurance against the lost of countless thousands of American's jobs. So the replacement of the Oliver lock and dam is essential to Alabama and the Nation if we are to remain competitive with other countries to capture our world markets and also if we are continuing to improve unemployment and improve our economy.

I want to thank you, Mr. Chairman, for permitting me to make a statement and I will defer to Senator Heflin.

STATEMENT OF HON. HOWELL T. HEFLIN, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator HEFLIN. Thank you, Mr. Chairman.

I realize you have many witnesses. I am going to be very brief. I think Senator Denton has adequately covered this matter. I would like to emphasize the benefit-cost ratio of 3 to 1 and state that the existing Oliver lock and dam has been there for nearly 50 years and it is certainly outmoded. It is the waterway artery of transportation from Birmingham as Senator Denton mentioned where steel and many other things are manufactured, starting at the Birmingham Port and then flowing down to Tuscaloosa where the Oliver lock and dam is, and then down to Mobile. This is inadequate to handle the traffic there and it does need a replacement.

The corps has an excellent plan with this. We hope that it can be included in your bill. We thank you very much for allowing us to testify. I would like to submit a statement with attachments and the statement from Colonel Nichols. (See p. 67.)

Senator ABENOR. Fine. They both will be made a part of the record.

I appreciate both of you gentlemen coming before this committee. I have great respect for both of you. I know you need this lock. We are aware of it. At the time it was not approved or signed off by the chief. Has it now been signed off? That is the prime requisite here.

Senator DENTON. The Corps of Engineers was the last substantive checkpoint. The truth of the matter is the check-off by the governors, the Federal agencies is expected to be routine.

Senator HEFLIN. I might say, I believe that on December 5 the Chief of the Board of Engineers of the Rivers and Harbors gave it a favorable report.

Senator ABDNOR. I am sure if that is the case we won't have any problem whatsoever but if it wasn't approved and signed off at that time then you would have to do it with the provision with it being signed off and then considered authorized. We recognize the need. That was the reason at the time it was not included. We will have to bring this to the attention of the rest of the committee. I think one way or the other I can assure you we will put it in the bill. We have to bear in mind we have other members of the committee.

Senator DENTON. I would like to say happy new year to Senator Baucus.

Senator BAUCUS. Thank you, Senator.

Senator ABDNOR. Senator Baucus.

Senator BAUCUS. Thank you very much, Mr. Chairman. I appreciate the statement of the two Senators from Alabama and the full force of your presence and concern of the State of Alabama is duly noted and recognized and felt and we appreciate your presence this morning. It helps very much to have Senators personally come before a committee and state what is of personal concern to them. That makes a difference to this Senator. I am sure it does to members of this committee and I appreciate your presence this morning.

Senator ABDNOR. Let me assure you that this is one of those cases as I said that I am sure we could offer as a committee an amendment. Before I would go too far off on the limb I have to make sure my committee agrees with me. I feel confident that under those circumstances by the time we go to the floor having signed off of the project by the Chief or having it contingent upon that will more than be satisfactory. We thank you for coming this morning. We know you fellows also have a very busy schedule. We are happy to have you take this under consideration.

Senator BAUCUS. Mr. Chairman, I have a statement. I won't read it but I would like to have it in the record. The statement basically evolves around some of the concerns I have regarding the cap; also the Board which addresses user fees and third the administration's authority under the bill, proposed authority in respect to the user fees. I look at this from many points of view. One that is very important to me frankly is the effect it will have on agriculture particularly on wheat and grain producers which I know is very much a concern of yours, Mr. Chairman.

Senator ABDNOR. I do have the same concern. That is exactly why we called this unusual meeting. I called it after we passed the legislation for that specific purpose. The Senator from Montana has been extremely helpful all the way along in this bill and is always one of those in attendance. We appreciate that very much.

Senator BAUCUS. I would like to have my statement included in the record.

Senator ABDNOR. The statement will be made a part of the record.

[Senator Baucus' statement follows:]

STATEMENT BY SENATOR MAX BAUCUS
WATER RESOURCES SUBCOMMITTEE HEARING

JANUARY 24, 1984

INLAND WATERWAY USER FEES AND DEEP DRAFT PORT DEVELOPMENT

SENATOR ABNOR, I WOULD LIKE TO BEGIN BY THANKING YOU FOR AGREEING TO THE NEED TO HOLD THESE TWO DAYS OF HEARINGS. YOU ARE TO BE COMMENDED FOR THE COMPROMISE THAT YOU HAVE CRAFTED TO ADDRESS DIFFERENCES BETWEEN THE POSITION OF THE ADMINISTRATION AND THE WATERWAY USERS.

BUT, I AM CONCERNED THAT THIS COMMITTEE HAS NOT FULLY CONSIDERED THE IMPLICATIONS OF ITS ACTIONS.

I HEAR THREE INTERWINED THEMES WHEN ONE DISCUSSES INLAND NAVIGATION.

WATER POLICY

FIRST, I HEAR THAT WE NEED TO USE THE USER FEES AS WAY TO DEVELOP NATIONAL WATER POLICY. I, TOO, AGREE THAT THERE IS A NEED FOR A MORE EXPLICIT NATIONAL WATER POLICY. BUT, I THINK WE HAVE TO BE VERY CAREFUL WHEN WE ASK THE QUESTION, "HOW WILL RAISING USER FEES ASSIST IN MEETING NATIONAL WATER POLICY OBJECTIVES. WE NEED TO BE VERY CAREFUL THAT SHORT TERM COSTS DO NOT END UP DICTATING LONG TERM TRANSPORTATION AVAILABILITY. I THINK WE COULD ALL AGREE THAT THE INLAND NAVIGATION SYSTEM IN THIS COUNTRY IS A MATURE SYSTEM.

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TO A LARGE EXTENT, WE ARE NOT TALKING ABOUT BUILDING NEW SYSTEMS OF LOCKS AND DAMS, BUT RATHER REBUILDING WORN OUT FACILITIES AND KEEPING WHAT WE HAVE FULLY OPERATIONAL.

NOT JUST IS IT A MATURE SYSTEM BUT, IT IS AN AGING SYSTEM. THE CORPS OF ENGINEERS THROUGH THE NATIONAL WATERWAY STUDY SUPPLEMENTAL REPORT DATED MARCH, 1983, IDENTIFIED OVER 50% OF OUR NAVIGATIONAL LOCKS AS BEING AT LEAST 40 YEARS OLD. MANY OF THESE LOCKS ARE ALREADY 50 YEARS OLD. DISREGARDING THAT MANY OF THESE FACILITIES ARE OBSOLETE, NONE OF US SHOULD LOSE SIGHT OF THE FACT THAT, WITH A 50 YEAR DESIGN LIFE, MAJOR EXPENDITURES WILL BE NEEDED TO MAINTAIN A VIABLE INLAND WATERWAY SYSTEM OVER THE COMING YEARS..

IT ESCAPES ME HOW IT IS IN THE INTEREST OF NATIONAL WATER POLICY FOR CONGRESS TO ABDICATE ITS AUTHORITY TO SET WATERWAY USER FEES TO THE ADMINISTRATION. WATERWAY POLICY NEEDS TO BE SET IN AN OPEN, PUBLIC FORUM. CONGRESS IS THE PLACE WHERE THIS POLICY SHOULD BE DEVELOPED.

FISCAL POLICY

A SECOND DRIVING FORCE BEHIND TITLE V IS THE UNDERCURRENT TO REDUCE FEDERAL EXPENDITURES. I STRONGLY AGREE WITH THE NEED TO SOLVE THE CRITICAL BUDGET ISSUES FACING THIS COUNTRY. MAKE NO MISTAKE, SOARING FEDERAL DEFICITS ARE NOT THE RESULT OF EXPENDITURES FOR NAVIGATION.

I BELIEVE IT IS IRRESPONSIBLE FOR THIS COMMITTEE TO NOT CONSIDER THE BROADER ECONOMIC POLICY REASONS FOR HAVING A VIABLE INLAND NAVIGATION SYSTEM. THE INLAND WATERWAY SYSTEM

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PLAYS AN IMPORTANT ROLE IN ENCOURAGING TRADE, PROVIDING EMPLOYMENT, AND ENCOURAGING REGIONAL ECONOMIC DEVELOPMENT. THIS COMMITTEE NEEDS TO FIND WAYS TO INCREASE ECONOMIC ACTIVITY, NOT DISCOURAGE IT. WE NEED TO PROMOTE ECONOMIC VITALITY THROUGHOUT ALL REGIONS OF THE COUNTRY. WE NEED TO FIND WAYS TO ENCOURAGE FOREIGN TRADE, NOT DISCOURAGE IT.

WE SHOULD NOT LOSE SIGHT OF THE FACT THAT AGRICULTURE IS ONE OF THE FEW POSITIVES IN OUR CURRENT BALANCE OF TRADE. IN 1982, WE HAD OVER \$35 BILLION IN AGRICULTURAL EXPORTS. APPROXIMATELY 40% OF THE GRAIN RAISED IN THIS COUNTRY IS FOR EXPORT. IN THE PACIFIC NORTHWEST, THIS FIGURE IS EVEN HIGHER-- APPROACHING NEARLY 60% OF ALL GRAIN BEING RAISED FOR EXPORT.

GRAIN EXPORTS DEPEND ON THE AVAILABILITY OF COST EFFICIENT MODES OF TRANSPORTATION. THE INLAND WATERWAY SYSTEM PLAYS AN IMPORTANT ROLE IN MEETING THIS NEED. WE MUST NOT ATTACK THE FEDERAL DEFICITS AT THE EXPENSE OF OUR AGRICULTURAL INDUSTRY.

TRANSPORTATION POLICY

THE THIRD AND MOST IMPORTANT CONSIDERATION FOR THIS COMMITTEE IS THE QUESTION OF TRANSPORTATION POLICY. ALTHOUGH THIS LEGISLATION IS MEANT TO DEAL WITH OUR INLAND WATERWAY SYSTEM, YOU CAN NOT LOOK AT WATERWAYS WITHOUT CONSIDERING THEM WITHIN THE CONTEXT OF THE OTHER MAJOR TRANSPORTATION MODES, NAMELY, RAILROADS AND TRUCKS. I AM CONCERNED THAT WITH THE RECENT DEREGULATION OF OUR RAILROADS, BARGE SHIPPING COSTS ARE THE ONLY FORCE MODERATING TRANSPORTATION COSTS. THIS ISSUE IS AN ISSUE OF CONCERN TO ALL AGRICULTURAL AREAS, NOT JUST THOSE

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SERVED BY THE INLAND WATERWAY SYSTEM.

COMMITTEE ACTION

THIS COMMITTEE NEEDS TO CONSIDER WATER POLICY, FISCAL POLICY, AND TRANSPORTATION POLICY IN ARRIVING AT AN ACCEPTABLE POLICY TO GUIDE OUR INLAND NAVIGATION SYSTEM. TITLE V INCLUDES IMPORTANT FEATURES, SUCH AS SETTING UP A BOARD TO PROVIDE A VOICE FOR THE USERS TO PARTICIPATE IN THESE DECISIONS. BUT, I DO NOT BELIEVE THAT IT IS RESPONSIVE TO THE NEED TO BALANCE THE CONFLICTING OBJECTIVES AND WATER, FISCAL AND TRANSPORTATION POLICY.

THE BARGE INDUSTRY IS PRESENTLY ON ITS KNEES. I ASK YOU HOW MUCH MORE CAN AN INDUSTRY THAT LOST \$30 MILLION LAST YEAR SUSTAIN.

THE AGRICULTURAL COMMUNITY IS IN A DESPERATE SITUATION. PRESENTLY, THE AGRICULTURAL COMMUNITY IS CARRYING AN OUTSTANDING DEBT OF OVER \$200 BILLION. IN MY OWN STATE OF MONTANA, THE AVERAGE FARMER HAD A NET INCOME OF \$64 LAST YEAR.

THERE IS A LEGITIMATE NEED TO HAVE USERS BEAR MORE OF THE COSTS OF OUR INLAND NAVIGATION SYSTEM. BUT THESE COSTS MUST BE APPLIED IN A FAIR AND EQUITABLE MANNER WHICH RECOGNIZES THE REVENUE ADEQUACY OF THE VARIOUS INDUSTRIES WHICH ARE AFFECTED.

THERE IS CRITICAL NEED TO BEGIN REBUILDING OUR INLAND NAVIGATION SYSTEM. BUT, I CAN NOT SUPPORT CONGRESS TURNING OVER ITS RESPONSIBILITY TO SET USER FEES TO THE ADMINISTRATION.

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I CAN NOT SUPPORT THE PAY-AS-YOU-GO PRINCIPLES EMBODIED IN S.1739.

IT IS MY DESIRE TO SEE AN OMNIBUS WATER RESOURCES BILL MOVE THROUGH CONGRESS. I LOOK TO TODAY'S HEARING TO PROVIDE GUIDANCE SO THAT A FAIR AND EQUITABLE INLAND WATERWAY POLICY THAT I CAN SUPPORT CAN BE DEVELOPED.

Senator ABDNOR. Our next witness is Bory Steinberg who as I said in my opening statement we asked for his expertise, as Chief of Programs Division, Corps of Engineers. We have asked him to be a technical witness in order to place in the record the technical handling of the \$646 million cap contained in title V of S. 1739. We appreciate your being here, Mr. Steinberg. We are anxious to see what you have to offer in the way of properly handling this cap and how we achieve it.

STATEMENT OF BORY STEINBERG, CHIEF, PROGRAMS DIVISION, DIRECTORATE OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS

Mr. STEINBERG. Thank you, Mr. Chairman.

Mr. Chairman, members of the subcommittee, I am pleased to appear before you today to provide some technical input on our initial assessment of the \$646 million obligation ceiling specified in title V of S. 1739.

The bill as reported by the committee just over 2 months ago would, if enacted, establish an annual obligation ceiling of \$646 million commencing in fiscal year 1986 for construction, rehabilitation, renovation, operation, and maintenance of commercial navigational features and components of the inland waterways and harbors of the United States. The ceiling would remain in effect through fiscal year 1999. Title V would, in effect, keep the Federal share of future commercial inland waterway expenditures by the corps to no greater than the fiscal year 1983 level, with no provision for price level increases.

The committee report states that the \$646 million figure represents the actual expenditures for inland waterway projects under construction and completed. While section 501 of the bill places the ceiling on obligations, the fact that the ceiling is to be in effect for many years makes the difference of obligations versus expenditures of no consequence.

Our preliminary estimates of obligations in fiscal years 1984 and 1985 indicate that the program will be slightly less than \$646 million in fiscal year 1984 but right at the ceiling in 1985 based on published planning ceilings. Using these planning ceilings, in fiscal year 1986, the first year that the ceiling would be in effect, our es-

timates indicate that without any new construction projects being undertaken, we will be very close to the \$646 million ceiling.

Operation and maintenance and major rehabilitation would account for more than 50 percent of the obligations. Construction, General, projects, primarily lock and dam 26 and Red River Waterway, would account for 35 percent and MR&T would use 10 percent based on the 20 percent formula prescribed in section 502(c) of the bill and traditional cost sharing.

The basis used in calculating the \$646 million expenditure figure varies slightly from what the figure would be if we had had the benefit of the language of title V as the basis for our calculation.

The adjustments consistent with title V, which we made, resulted in total actual expenditures for fiscal year 1983 of \$658 million. We expect this amount to drop in fiscal year 1984 and to be right at the ceiling in 1985. During these 2 years the Tennessee-Tombigbee Waterway navigation work will be winding down and should more than offset price level rises in operation and maintenance.

That brings us to fiscal year 1986 and beyond, the first years the ceiling would be in effect. We can project fairly accurately the O&M amount, the 20-percent MR&T figure, and the normal major rehabilitation requirement.

For example, in fiscal year 1986 and 1987, these three components should be in the \$400 to \$440 million range each year. The two uncertainties are the amounts for continuing ongoing construction and, the longer term question, the rate at which new projects not yet authorized and large major rehabilitation projects will be constructed.

The ongoing work boils down to one or two questions. We are presently funding locks and dams 1 and 2 on the Red River Waterway but do not have a schedule for construction of locks and dams 3, 4, and 5. The timing of these elements would make a substantial difference in the annual funding amounts for over a decade. Later this year we will be awarding a very large contract at lock and dam 26 which will run 3 to 4 years. The present good bidding climate may continue but one is less certain about the figure. This creates some degree of uncertainty for future obligations.

The largest uncertainty rests with the major replacement locks and dams which have yet to be authorized. We have developed estimates based on authorizations being considered by the 98th Congress and on initiation of construction in 1985. These estimates considered all seven of the major projects with an estimated cost in excess of \$1.5 billion proceeding simultaneously. The result of this analysis was that commencing in 1988 the funding requirements for new projects would exceed \$100 million per year and could exceed \$200 million per year at the end of this decade and the early 1990's.

Based on this hypothetical schedule, approximately \$125 million would have to be raised in fiscal year 1988, and this amount would double as new replacement locks presently being considered for authorization hit their peak years of construction and as higher price levels increase construction costs and the operation and maintenance requirements.

In summary, title V would place a ceiling on corps obligations. Any obligations in excess of the ceiling would require user fees.

Title V establishes a user board to help the Secretary decide how much to obligate, thus implying that the board would provide input as to when additional user charges would be required and where obligations should be cut back, project construction stretched out, or expedited.

This concludes my statement, Mr. Chairman. I would be pleased to answer any questions you or members of the subcommittee may have.

Senator ABDNOR. Let's attempt to put this in a capsule here. Starting in 1986, without user fees at that time, what could we do?

Mr. STEINBERG. Basically, sir, the operation and maintenance and the ongoing construction, primarily Lock and Dam 26 and the Red River Waterway, some ongoing major rehab and the 20-percent factor of MR&T would eat up all but about \$20 to \$22 million of the ceiling.

Senator ABDNOR. How many years following that?

Mr. STEINBERG. The curve rises rapidly. In other words, if we were to proceed with the projects which the committee is considering for authorization in a normal schedule, we would exceed the ceiling by 1987 even without new construction starts.

The escalation of work for operation and maintenance, and we took a very modest cost escalation, and the remaining ongoing work, including Red River Waterway, would exceed the \$646 million limit in 1986.

Senator ABDNOR. What happens when you pointed out that at a certain point, the Tombigbee levels off?

Mr. STEINBERG. In fiscal year 1983, which is the base year on which the \$646 million was developed, the Tombigbee project had expenditures in excess of \$160 million. In each of the fiscal years 1984 and 1985, we should be down in the \$90 million range. That drop of over \$70 million does not get eaten up with price escalation in O&M, leaving some margin in 1984 and 1985.

The margin dramatically closes by 1986 but there may still be a little room in 1986 for construction starts within the ceiling. However, by 1987 it is clear to us that the \$646 million would be exceeded.

Senator ABDNOR. That is really carrying construction at the maximum, isn't it?

Mr. STEINBERG. In 1987 we only estimated about \$40 million for the new projects. However, we would have three more years of price escalation on operation and maintenance and approximately a level program in continuing construction in 1987 and 1986, based on Red River Waterway and lock and dam 26 continuing.

So 1988 would be a big year for the new work. In 1986 and 1987, we started at a very modest rate.

Senator ABDNOR. And that could be stretched out longer if Congress so determined it, couldn't it?

Mr. STEINBERG. Yes.

Senator ABDNOR. It wouldn't have to be done all at one time. To follow somewhat near the schedule you are talking about, how many dollars are we talking about in addition to what the cap would be?

Mr. STEINBERG. We would be over the cap by about \$44 million in 1987, \$184 million in 1988, and it could exceed \$200 million in 1989.

Senator ABDNOR. That is carrying on almost at the maximum? Right?

Mr. STEINBERG. Yes, sir. Construction of the seven projects being considered in the House and Senate was scheduled simultaneously at a reasonably efficient rate.

Senator ABDNOR. Have we ever had a program like that going on before?

Mr. STEINBERG. In the 1960's, they may have.

Senator ABDNOR. Not for a long time.

Mr. STEINBERG. Not for a long time.

Senator ABDNOR. That is the ideal thing if we had all the money we wanted to spend and had no problems with deficits in government.

Mr. STEINBERG. That is very true.

Senator ABDNOR. There were no plans, prior to this legislation, of carrying on such a program. Well, it does point out one thing, that we just can't keep going like we have in the past if we want to do all of these things. Some of the problems are because we haven't come up with some means of financing projects. They have been delayed over the years and starts have been slowed down and as a result it costs much more.

If we had the money 10 years ago we probably could have done it for much less than what we are talking about today. We have been fighting this sort of thing. But having to go around the country in the interim between the last session and the start of this one, one issue people are wondering about is these deficits and it isn't going to get any easier trying to sell more deficits to the people back home.

We are particularly pleased with your testimony today because you have put it in the proper light of where we are starting from and what we have to offer.

So I guess we can say in the wrapup analysis where we are today and what the dollar will do and what we are going to be faced with if we want to go along at a rapid pace of construction and maintenance. But one thing about it, you have to admit that if there are any efficiencies to be found in water development, our proposed program is going to bring them out, don't you think?

Mr. STEINBERG. Although I do not include that in my statement, Mr. Chairman, I personally believe that that is correct. If the users are going to have to pay the fees and that is the way the bill is set up, they are going to take a close look at what the corps charges to navigation and how we operate and how many shifts we have on some of the waterways that may not be as busy as the Mississippi or the Ohio.

I am sure that some efficiencies will come out.

Senator ABDNOR. Let me ask you this and then I will ask Senator Baucus if he has any questions.

If we did nothing, if the legislation isn't passed or anything else, what do we have to look forward to? What are we going to have in the years ahead?

Mr. STEINBERG. Probably further impasses similar to those we have had over the last 6 to 8 years.

Senator ABDNOR. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Steinberg, what economic assumptions have you used for your estimates of future years if the total amount of the dollars are going to be required to not only rehabilitate present systems but also add new systems; that is, the figures I have seen go out to 1994, the precise dollar amounts for each year up through 1994.

I am curious what economic assumptions were used generally for those years in terms of inflation rates, growth rates, unemployment rates, et cetera.

Mr. STEINBERG. It varies. On the operation and maintenance, the projects that are already existing and on line we used a 5-percent inflation factor.

Senator BAUCUS. That is beginning in what year?

Mr. STEINBERG. Beginning in 1985 and into 1986 and beyond.

Senator BAUCUS. It is basically 5 percent from 1985 through 1994 roughly?

Mr. STEINBERG. Yes.

Senator BAUCUS. What interest rate?

Mr. STEINBERG. Interest rates had no bearing on the estimates of obligations. I was referring to our annual O&M program which is mostly operation of locks and dams and dredging and some other navigation related work. We are saying that to the cost of doing business, taking into account certain efficiencies which may occur as price levels go up, we just added a 5-percent factor to the O&M which is the biggest piece of the \$646 million, particularly as you go out into the future.

For ongoing construction, we based costs on when the contracts are scheduled for award. For example, at lock and dam 26, there is a very large contract, in excess of \$200 million, for the next piece of lock and dam 26, scheduled for award later in 1984. So we are basing it on essentially current prices, close to what contractors would bid today.

On the other hand, locks and dams 3, 4, and 5 on the Red River Waterway will be spread over a decade. So we cranked in some inflation.

What would the bidders bid in 1987 and 1991, and so on?

Senator BAUCUS. I don't know if I fully understand the financing. But say in respect to a new project, 1990, let's say interest rates in the United States, say Treasury bills are going at 15, 16 percent as opposed to, say, 10 percent, what direct effect does that have on new construction that year?

Mr. STEINBERG. Undoubtedly, construction dollars would be tilted but in our calculation of the numbers that I testified on this morning, I did not consider future interest rates.

I did include inflation but not interest rates.

Senator BAUCUS. You know every project is just that, a projection. It is difficult to know precisely what in fact the results are going to be and in private at industry and government both are not known to be absolutely on their mark in making projections.

I am sure the corps is no different. I am curious whether your shop has run any historical results compared with, or correlated with projects you have made over the last 8 or 10 years to see how close they are, whether you have gone over the mark or under, or do they wash out even or what?

Mr. STEINBERG. I did not, sir. We could and I think we would be fairly accurate on O&M. Construction is a political decision as to which project starts and which does not. So that is why I said that ongoing construction which we have a good handle on, the O&M and the ongoing major rehab work which I pinned down in the \$400 to \$440 million range over the next 2 years, I think, if we went back and looked at those programs we would be pretty accurate.

New construction, I wouldn't even begin to guess because the Congress has to decide on that, also, on the authorization of new projects.

Senator BAUCUS. But have you run those analyses, though?

Mr. STEINBERG. I have not.

Senator BAUCUS. Could you? Would it be difficult to do so?

Mr. STEINBERG. I think we could, particularly, on the O&M and the rehab and on the ongoing construction. It is more difficult on projects that haven't started.

Senator BAUCUS. Could you also try new construction, too?

Mr. STEINBERG. Yes. (See p. 17.)

Senator BAUCUS. I would appreciate that.

What is generally considered the design life, the average engineering-design life of a navigation lock?

Mr. STEINBERG. I believe about 50 years.

Senator BAUCUS. From the information I have—you might correct this if this information is incorrect. In the existing system, there are 118 of the inland systems; 225 locks are at least 40 years old; 61 are 50 years old or more. I am curious, if that is the case, what the prospect is that we are going to have a lot of rehabilitation ahead of us.

Mr. STEINBERG. You are exactly right. Toward the end of the period of the title V, in other words, in the 1990's, we foresee some major rehabs of significant magnitude that has not been addressed yet, either by the corps in its preliminary studies other than the national waterway study, or the Congress for the basis of authorization.

There is a provision in the bill that would ask that major rehab projects in excess of \$25 million come to the Congress for authorization. Although I indicated that briefly in my statement, we really haven't pinned down the exact ones and cranked that into the figure.

Senator BAUCUS. I share Chairman Abdnor's concern about the budget deficit that we have. I don't know that the user fee is the way to solve it. I tend to think, to the degree stated in the administration bill, it is not the way to solve it. But, nevertheless, projections generally tend to be overstated. We have got some costs and obligations ahead of us. I am trying to establish that probably with all of these projects would be more expensive rather than less expensive in the future. So we have to address that.

Mr. STEINBERG. I would say one thing. If we were sitting here 10 years ago, making projections of how much new construction would be underway, our numbers would have been much too high compared to what happened in the last decade.

Senator BAUCUS. I think the economy has something to do with that.

Thank you, very much.

Senator ABDNOR. Thank you, Senator Baucus.

We will be interested in the information Senator Baucus asked for. We are very pleased to have the chairman of the Environment and Public Works Committee with us. He always finds time to help us in this area. We couldn't get along without his counseling and advice. I didn't expect him to make a special effort to come here today but we are very grateful, Mr. Chairman, and if there are any comments you would like to make at this time.

Senator STAFFORD. Thank you, very much, Mr. Chairman.

This is an important subject. I did want to come by and see how it was going. When the committee has a subcommittee chairman as able as you are, I have learned not to interfere with the progress at the subcommittee level. So I came by to indicate my interest and to hear some of the witnesses and I have one question I would like to direct to you, Mr. Steinberg; that is this: Is it accurate to say that the administration has proposed a 70-percent cost recovery on the waterway programs?

Mr. STEINBERG. I believe there is a bill that the administration sponsored calling for that on inland waterways.

Senator STAFFORD. So I guess my statement is accurate?

Mr. STEINBERG. Yes, sir.

Senator STAFFORD. Thank you. Thank you, very much, Mr. Chairman.

Senator ABDNOR. Thank you. Thank you, Mr. Steinberg.

[The information requested by Senator Baucus follows:]

] ANALYSIS OF PRIOR PROJECTIONS [

An analysis in 1977 of 23 inland waterway projects authorized for construction or Phase I design, on which construction had not started, concluded that 18 projects could have been initiated for construction by Fiscal Year 1984. Subsequent to the Budget Review, four projects actually started construction (three of which will be completed with FY 1984 funding), one was deauthorized, five are inactive, three are deferred, three are included in W.R. 3958, three are authorized but Advance Engineering and Design is not complete, and one is authorized but no funds have been appropriated for construction. A list of the projects follows:

Inland Waterways Projects on Which Construction Has Not Been Initiated
(Extract from Senate Hearings- FY 1978 Budget Review, pg. 611)

Project and State	Date Authorized	Estimated Federal Cost (\$000)	Estimated Year Project Available for Construction, New Start	Current Status
Coosa R. Montgomery to Gadsden, AL	1945	475,400	1983	1/
GIWW-St. Marks to Tampa, GA	1968	185,000	Indefinite	1D
St. Lucie Inlet, FL-Sec. 201	1974	4,240	1978	4-1979/1981
Illinois Waterway-Duplicate locks, IL	1962	769,000	1982	2
Mississippi River Between Missouri River and Minneapolis, Guidewalls-St. Louis District, IL	1930, 1935	83,100	Indefinite	1D
Mound City Lock and Dam, IL	1963	277,000	1988	3/
Kansas River Navigation, KS	1974	5,000	1979	1I
GIWW, New Orleans-Houston (LA Section)	1970	58,200	Indefinite	1D
Petit Anse, Tigre & Carlin Bayous, LA	1976	2,770	1982	1I
Red River WW, Shreveport, LA to Daingerfield, TX	1968	335,000	1982	7
Vermilion Lock, Louisiana (Leland Bowman)	1976	20,600	1978	4-1981/1984
Detroit River, Trenton Channel, MI	1968	74,400	Indefinite	1I

Inland Waterways Projects on Which Construction Has Not Been Initiated

Project and State	Date Authorized	Estimated Federal Cost (\$000)	Estimated Year		Current Status
			Project Available for Construction, New Start		
Mississippi River Guidewall Extension Lock No. 3, Minnesota	1930, 1935	2,490	1981		7
Yazoo River, MS	1968	130,000	1983		7
Manteo (Shallowbag Bay), NC	1970	30,000	1979		2/
Big and Little Sallisaw Creeks, OK	1976	1,200	1980		8
Grays Landing Lock and Dam, PA	1972	59,800	1980		5,6
Point Marion Lock and Dam, PA	1972	38,900	1980		5,6
Little River Inlet-Section 201	1972	11,600	1979		4-1979/1984
GIWW-Harbor of Refuge at Seadrift, TX	1954	910	1978		11
GIWW, TX Section--Relocation, Matagorda Bay, TX	1962	1,350	1979		11
Mouth of Colorado River, TX	1968	8,920	1979		3-1984
Gallipolis Lock and Dam Replacement, WV	1976	146,000	1980		5,6

1/ Project is not economically justified. Will be reclassified to inactive.

2/ Construction funding deferred pending resolution of project economics and issuance of Department of Interior permits.

3/ Not authorized, however; study to replace L&D 53 is scheduled for completion in September 1985.

<u>Code</u>	<u>Reason</u>	<u>Example</u>
1	<u>In</u> active, <u>D</u> erferred	11, 1D
2	Deauthorized	
3	Initiated Construction in _____	3-1979
4	Initiated Construction in _____ and Completed Construction in _____	4
5	Project Contained in H.R. 3958 (House/Senate) New Start Bill	4-1980/1983
6	Project not authorized, but contained in H.R. 3678 and/or S. 1739	
7	Project is authorized, but AE&D not complete.	
8	Project is authorized, but no funds appropriated for construction.	

In addition, the 5-year Investment Program for Fiscal Year 1978 to 1982 showed an extensive list of projects that were in various stages ranging from not authorized to authorized with Advance Engineering and Design complete. We analyzed the list of projects in that 5-year investment program. The list of projects actually started is quite small. A combination of no authorization bill since 1976, benefit-cost ratio being less than unity under current conditions, and other projects being placed in the inactive and deferred categories result in a relatively small number of projects being constructed. Of the 260 projects shown in the 1978-1982 Investment Program, only 24 projects will complete construction with funding through Fiscal Year 1984. The original list with an annotation of those initiated follows:

[illegible]

¹Projects shown are those prepared for initiation of construction in FY 1978-81. The five-year investment program as shown is flexible. It must be reviewed and revised annually as the investment program is updated to reflect changes in objectives, to take advantage of improved data, to comply with budgetary considerations and to reflect changes in the project status. The project status reflects the status as of December 31, 1978.

Exhibit

AC	- Budgeted for initiation of construction in FY 1978.
EP	- Budgeted for initiation of planning in FY 1978.
AC	- Available for initiation of construction in FY 1978.
EP	- Available for initiation of planning in FY 1978.
PA	- Available for initiation of planning in FY 1978 subject to substantiation of a report to the Secretary of the Army by the Chief of Engineers and notification to Congress of the Chief's approval, as required by the Water Resources Development Act of 1976.
PA	- Available for initiation of planning in budget year subject to authorization under proposed or pending legislation.

LA - Federal tax acquisition and available for initiation of construction in FY 1978.
 LJ - Funded for land acquisition and not available for initiation of construction in FY 1978.
 NA - Unauthorized.

UP - Available for continuation of planning in FY 1978
CP - Available for completion of planning in FY 1978.

PC - Planning completely funded but not available for new construction start in FY 1978.
 PP - Planning partially funded but not available for planning funding in FY 1978.

PW - Planning not yet funded and not available for planning funding in FY 1978.
 PI - Available for initiation of Phase I planning in FY 1979. (Projects specifically authorized for Phase I planning only.)

submit cost ratios are used on 3-1/4% or 0-3/8% discount rate whichever is applicable.
/ Authorized in 1976 Water Resources Development Act without Corps of Engineers Report. Cost and benefits not yet developed.
Construction of this project shall not be initiated until approved by the Secretary of the Army and the President as required
the Street & Harbor Act of 1970

Extract from Senate Hearings - FY1978 Budget Review. CODE REASON

Section 205-Small Project

2 Project contained in H.R. 3958 (HOUSE/SENATE)

New Start 311

Senator ABDNOR. We are going to have to move along. Our next group is a panel of farm groups, Mr. Carlson, cochairman, National Association of Wheat Growers, the National Farmers Union speaker; Mr. Robert M. Frederick, legislative director, National Grange; Mr. Paul R. Sacia, assistant director of legislative service; Mr. James F. Eberwine, chairman, Special Rail/Barge Committee; Mr. Richard Kowalewski, director, transportation, Farmland Industries; and Mr. Steve Lucas, director, logistics and operations.

It is a very impressive group of farm representation. I know I speak for a vast percentage of the farm people of America in welcoming you gentlemen here.

We appreciate your attendance. I am sorry we are rushing things along. But you can start out any way you want to.

Let me assure you that your entire statements will be made part of the record and we could very well be consulting with you individually. Time is a factor. So go right ahead.

STATEMENT OF LOUIS CARLSON, COCHAIRMAN, NATIONAL ASSOCIATION OF WHEAT GROWERS, ACCOMPANIED BY ROBERT M. FREDERICK, LEGISLATIVE DIRECTOR, NATIONAL GRANGE, WASHINGTON, D.C.

Mr. CARLSON. Thank you, Mr. Chairman.

I too thank you for allowing us to appear before you today to discuss this issue of the waterway fees on inland waterways, ports, and harbors.

My name is Louis Carlson. I am a wheat grower from Oregon. I have traveled the distance of this United States to testify before this group today. I am cochairman of the National Association of Wheat Growers. We have a waterways chairman, rail chairman, and a highway chairman. I happen to be the waterways chairman.

I have studied your Senate bill very closely. I believe and I too am frustrated at the problem of operating and maintaining our waterway systems in the United States. We have a lot at stake and I have to approach the subject not only from my own perspective but also from the perspective of the wheat growers in the United States in general. So we have lots of waterways, lots of regions to take into consideration. It is not an easy representation that I hold.

Wheat exports are a vital market that we have. In that particular case I am a wheat grower and the production from 2 out of 3 acres that I raise goes into the export markets, primarily in the Asian markets. However, the rest of the United States does also use all of the waterway systems of this country. We are very proud of the fact that we have developed these markets in the world and we think they contribute to the economy of the United States of exports in grain to the world market on the basis of quality and competitive pricing.

Anything that disrupts these markets whether it be the quality or problem with our shipping on the inland waterway systems, locks and dams jeopardizes that market program with our foreign customers. We in the wheat industry realize that we do need an efficient and comprehensive waterway system in this United States. We also understand that we have to pay for those waterway systems. There is no question about that. We believe that Govern-

ment can provide some of the good things in life but we also realize that the Government has their hands in the till far too far and the cost of money that we have to borrow to operate is much too high.

In 1981, 2 billion bushels of our product move from the waterways to the marketplace. While our product was going downriver, fertilizer barges were coming up the river and fuel barges were coming up the river. In our opinion the grower, the wheat grower, the agriculturalist, pays the freight cost of products going down the river as well as going up the river. So you can see that any additional fee imposed upon the users of the inland system will affect farmers.

There are a number of respectable people in this country that point out that the grower is ultimately the person that is going to pay the freight cost. The barge operator, the grain trader is going to soak up the cost as much as possible but when it comes to push and shove and their net profit reaches a certain level, then they have to raise the price and that price is openly passed onto the grower.

So you all recognize that any tax that is going to be paid on grain shipments is going to come from the grain shipper and the producer and today's margin of profit is indeed slim in the agricultural world. That is why we growers in America take special note when a new cost is imposed upon us without the opportunity to pass it on or spread out the effect of the cost. That is my position on users fees but let me hasten to tell you that our ability to transport our product into the world market in an efficient manner is of the utmost importance.

Our grower organization, the National Association of Wheat Growers commends you, Senator, on the hard work and the dedication that you have provided to improve our waterway system and the authorization of critically needed projects.

We believe that Government spending needs to come down and we are willing to pay our fair share but no more than our fair share.

Turning to Senate bill 1739 there are many provisions of the bill that meet with our approval. We commend you for seeking legislation whereby all of America shares in a portion of the improvements that are going to be made. We commend you for the provision of advisory personnel to the Secretary of the Army on inland waterway projects. We commend you for recognizing the need for new construction and the repair of the old locks and dams in order to keep our system the best in the world.

However, there are some provisions of the bill that we have some concern with. Title V permits the Secretary of the Army to impose, collect, and obligate use charges. Our concern is that the legislation does not spell out the type of fee nor the level of that fee.

Proposals from the administration for cost recovery are many. We have a systemwide tax and all those kinds of taxes that you are certainly aware of. The question is which one of these taxes is going to be imposed upon those shippers? Some are going to be devastating to agriculture and some will not be. I could go into the tax, various other kinds, but I don't want to take that time at this point in time. It is clear that agricultural products going to the market will be the ones that will pay for more than their fair

share simply because of the distance the grain travels from inland waterways to our ports.

A congestion fee is probably the most devastating to agriculture. Some areas would be completely bypassed simply because the congestion fee would eliminate that mode of traffic. We believe that any disproportionate user fee would cause, for instance, the Columbia Snake River system to be obsolete. For instance, if a fee is imposed upon that particular system that would divert our products from one mode of transportation to another, it would do irreparable damage to one particular area.

An option to increase the existing waterway fuel tax, it is estimated by the national waterway study by the Department of Transportation that in 1990 a 38-cent increase on the fuel tax at the 1990 level would raise \$245 million. What this means is that the diesel tax in 1990 would amount to 48 cents per gallon. The total cost to the inland water system would be approximately \$891 million. These figures simply tell us that the cost of operating, maintaining and construction of the inland system will rise significantly during the next decade as you well know.

As the user fee goes up, traffic will be diverted to other modes of transportation and the smaller volume of traffic on the rivers will then have to pay that increased cost per unit price of that system.

This brings us back to which is the most desirable tax in our opinion. Because of the diversity of our areas and diversity of our products, probably no one tax is going to be acceptable. A combination may be the answer. During the past 4 years as you well know, Senator, many bills have been introduced with all kinds of variations suggested. The wisest of our officials have wrestled with this thorny problem during this time.

Senate bill 1739 appears to delegate to the Secretary of the Army the authority to set the level of the tax and to provide the method of taxation. The National Association of Wheat Growers believes that this power should remain with the Congress. These critical decisions should remain with the Members of the Congress who are representatives of our people in this land.

Senator ABDNOR. Let me interrupt one second. I don't want to rush you, but if each person takes 15 minutes, a lot of people will not be heard. Let me say one thing. Again I want you to be more specific. I am not questioning you at all. I am looking for solutions. I hope you have something to offer here. Tell me what we ought to do. Let's get to the specifics on what you would suggest. I have no idea of what you think would be a favorable combination; new taxes or fees or what ever it is.

So if we could, that is the kind of thing I would like to have.

Mr. CARLSON. My position, sir, is that we are nervous about the fact that the Secretary of the Army is going to have as much authority as he does to set the level of the fee and to set the type of fee. We believe that this power should remain with the Congress.

The other thing I would like to point out in title X is that the deep water portion of this bill, anything deeper than 45-foot level, the bill suggests that 20 percent of that cost would be borne by other shippers than those deep-draft vessels. We feel that grain ships with depths of 25 feet for instance should not have to share the additional cost of those deeper draft ports.

My summary, I am sure that is what you are waiting to hear, is that regardless of the method of recovery, whether it be uniform, segment or combination thereof, it is clear that our major concern is maintaining the competitive nature of transportation systems serving the wheat industry.

We believe that fee increases and types of fees imposed must be subject to congressional approval. We believe that producers and barge operators should know far in advance of any user fee change. We in agriculture should have a strong voice on the advisory board, that the \$646 million should be indexed to inflation. The rest of my testimony is presented.

Senator ABDNOR. Let me assure you we will go very carefully through the testimony, Mr. Carlson. I would like to be able to ask you additional questions perhaps we will submit some in writing.

Our senior member in this committee, one we always look to for help has arrived here, Senator Randolph. I know he has other commitments so I have agreed to call on him first.

Senator Randolph.

Senator RANDOLPH. Mr. Chairman, I would not want to preempt the questioning by members of the subcommittee, it is only that other commitments that I have left momentarily to come to this hearing so that I might ask a question, possibly two, and I hope they are not too provincial in nature.

Mr. Carlson, you talk about the movement of grains. Is that correct?

Mr. CARLSON. That is true.

Senator RANDOLPH. I want you to designate, if it is possible what the grain movements are on the Ohio, and the Monongahela Rivers. We think of these rivers especially important to West Virginia and its movement of products.

Mr. CARLSON. Sir, I am not for the movement of grain on every segment of our waterway system. I would like to say that straight out. I have to deal with the general concepts of the bill and how the general concepts of that bill would affect the wheat industry in general.

Senator RANDOLPH. I can understand that. All of us in this committee are recognizing that perhaps our most vexing problem has been the user charge difficulty which has faced us in every bill that we have had that attempts to cope with the problem of the movement of products from the field, and the farm, and the factory, and the mine to the consuming public.

And my question here is one that if you feel that you could check and give an answer for the printed record I would appreciate it because it has some bearing on my thinking about the user charges that would be effective against one industry, or another industry, or whether those user charges would be of a mixed variety, perhaps even length of the barge movement, where the barge movements took place. All of this is something that concerns us.

I am sure you are familiar with the past hearings on this subject in this committee or that you would avail yourself of those hearings because it has been one of the matters that we never really have been able to come to grips with. In a sense we bring legislation to the Senate itself and there we are confronted again with the matter of user charges, very difficult viewpoints on this matter.

And your expressed concern for the large movement of grain we will say from the farms is certainly of interest and concern to me.

The Senator from Vermont and I are from the two most rural States in the Union. You are first and West Virginia is second. I am not saying by what criteria.

Senator STAFFORD. That is the only way we get ahead of you.

Senator RANDOLPH. Your testimony is very valuable. I shall read it carefully as I hope, Mr. Chairman, to read other testimony. I commend you for your hearings on this subject. I would want to thank Mr. Carlson for his accommodation of you, Mr. Chairman, in reference to your approach to this subject matter and the zeal with which you carry the work forward.

Senator ABDNOR. Thank you.

Somehow the senior member of this committee always has a way of zeroing in and saying it all in a few words of what we are striving to do and where we are going. That is precisely what the intent of this committee was. We need something concrete from the different groups so we can work on it because the problem is there and obviously whatever we do is not going to make everyone happy. We are trying to find some consensus, at least some progress on the water development and waterways that has been neglected for a long time.

Time is going by fast. I am going to have to hold to 5 minutes per person if you would.

**STATEMENT OF PAUL R. SACIA, ASSISTANT DIRECTOR,
LEGISLATIVE SERVICE, NATIONAL FARMERS UNION**

Mr. SACIA. Thank you, Mr. Chairman.

Leland Swenson, the president of the South Dakota Farmers Union, sends his apologies for not being able to make it today. I would like to go through his testimony. I should point out that within his statement there are not many things that I guess you have been asking for as far as the finetuning of your bill. So if you would allow me, I will go through the statement. If not, it would save some time.

Senator ABDNOR. Fine. I have great respect for him. I wish he could have been here. We do have to get everybody in.

Mr. SACIA. It will be very short.

Although Senate bill 1739 has already been reported out of committee, I would like to thank Senator Abdnor and the members of this committee for the opportunity to present the views of our organization.

The South Dakota Farmers Union is deeply concerned by any action that can pose a negative impact on agricultural exports, result in increased production costs or do overall damage to an already disastrously low farm and ranch income. We believe that title V and, to a lesser extent, title X, of the water resources bill, offers an extremely serious threat in all of these areas.

For almost the entire history of this Nation, all the way back to the northwest ordinance of 1787, the construction and maintenance of inland waterway facilities and harbors has been recognized as a national responsibility. Successive Congresses and administrations have subscribed the belief that improved water transportation

benefited the entire national interest and, as such, was a Federal responsibility.

Now we are faced with a dangerous new philosophy. This new philosophy ignores the fact that the entire Nation ultimately benefits from a well-maintained system of inland waterways. Instead we are told that users must pay a major portion of the bill for maintaining these facilities.

Mr. Chairman, you and I know who will pay a major portion of these costs. It won't be the users. Barge companies, like railroads and truckers, will pass these costs back to the farmer. Thus the farmer will be economically penalized when his grain moves to export markets and, especially in South Dakota and other upper Midwest States, he will also be penalized when he purchases fertilizer.

We have heard a lot about economic recovery. But out in rural South Dakota we are still waiting. We are still witnessing a rising tide of farmers and ranchers being forced out of business. Alice Rivlin, former Director of the Congressional Budget Office, has estimated that a 3-cent increase in waterway user fees would cost an average farmer about \$900 in gross income. But we are not looking at a 3-cent increase. By 1990, according to the Army Corps of Engineers, we are looking at an almost 40 percent increase. According to Mrs. Rivlin's estimate, an increase in fees of that magnitude could cost the average farmer more than \$12,000 in gross income. That is a burden that farmers simply cannot bear.

I would also sincerely question the wisdom of this committee in establishing a cap on Federal appropriations for inland navigation projects. This cap, which would be imposed until the year 2000, has been set at \$646 million. But what about inflation? Even at a modest annual inflation of 5 percent, by the year 2000 it would take an appropriation of more than \$1.2 billion to equal the real dollar value of the 1983 appropriation.

Title V also establishes a Users Board which would recommend annual appropriations for maintenance and construction of inland waterway facilities. But the cap of Federal expenditures places the Users Board in a straitjacket. If expenditures substantially above the cap are needed, the board would be forced to take the blame for much higher user fees or take the blame for neglecting needed construction and maintenance and, in effect, weakening the transportation system.

The news release announcing these hearings suggests that growing budget deficits require that farmers and other shippers assume a major portion of the cost of financing inland waterway projects. Farmers are also concerned about the deficits. But if we are really concerned about the deficit and if we want to maintain any semblance of equity, then we should look at the real sources of the current deficit. I believe the time has come to reexamine the 1981 tax cuts and the spiralling increases in military spending.

We firmly believe that this major shift in financial responsibility for the Nation's inland waterways is a serious mistake. We believe that it will result in unacceptable economic damage to agriculture in South Dakota and throughout the nation. Most of all, we believe that it is not in the national interest.

We sincerely ask you not to impose this unfair and regressive new tax burden on this Nation's family farmers and ranchers.

Thank you so much for your time.

Senator ABDNOR. Thank you.

We want to think about it. Maybe you have some constructive thoughts that you would get to us in writing. It is great to be against it. I have the greatest respect in the world for Mr. Swenson. But against is not the problem. I want you people to have to deal with the same problems I am dealing with. It is easy to come in here and tell me what is wrong. But you have to have some suggestions because time is running out. That is why I called this meeting.

I am very disappointed because I wanted to know what the farmers suggest. What do we do? I am vitally interested. I am a farmer myself. I know what they are up against. I went to the Farmer Chicago Board of Trade hearing, took off a whole day and revised my whole schedule because I am concerned. I saw projections by some very capable people that scared the heck out of me, no matter which way we go. I know we have a problem. I have to have suggestions. This represents 2 years of hearings and more. That is why I called this meeting. If I am going to get nothing but complaints today and no suggestions, then I have wasted a heck of a lot of time because we went through that earlier. I am hoping, when the chips are down, we are near the time somebody is going to come up with some leadership among farm groups, among coal people, among water barge people, and say let's do it this way, let's don't do anything, let's take our chances, if we all go to pot and do nothing, fine. That is where we are today. Who is next?

STATEMENT OF JAMES J. EBERWINE, CHAIRMAN, RAIL/BARGE COMMITTEE, NATIONAL COUNCIL OF FARMER COOPERATIVES

Mr. EBERWINE. Mr. Chairman, members of the committee, my name is James F. Eberwine and I am director of traffic, supplies division of our regional farm cooperative headquartered in Bloomington, Ill. I am pleased to be here today in my capacity as chairman of the National Farmer Co-ops, special rail/barge committee.

I would like to summarize our comments and submit the full statement for the record.

The National Council commends you and this committee for recognizing the need for a strong Federal financial commitment to the Nation's inland navigational system. We are pleased to offer our strong support for the provisions of Senate bill 1739 which authorized construction of the port navigational projects. However, the National Council is deeply concerned about funding provisions in the bill. As drafted title V would require a 500-percent increase in user fees by 1990, and I will cut this short, because of my two people ahead of me said that the burden of this increase cost approximately 12 cents a bushel would fall on the farmer.

Senator ABDNOR. Let me say this. I want you to understand. If the Constitution would allow it, we would put the whole thing in the hands of this board. That is how much control we want the users to have. Maybe we ought to figure out a better way to make sure the users committee has the kind of representation it should

have. We will have nothing unless the water users and people involved decide it. That is the intent of this Congress. It doesn't require anything. It doesn't require going at it. If people want to do anything, leave things the way it is, that is the way we want it to be. Then, we have to figure out some way to make it strong. But the Constitution keeps us from saying you have complete authority. It won't stand up. So we devised this method. Go ahead. I am sorry.

Mr. EBERWINE. The National Council endorses the general concept that the users should pay an equitable share of an operation. First of all, in economics there ain't no free lunch. We want to pay for our lunch. However, the benefits of the inland waterway system of agriculture fall far short of justifying the increased financial burdens implied in the bill. The National Council believes that greater equity and economic accountability can be achieved through the following modifications to title V of the bill.

First, maintain \$646 billion ceiling excluding the capitalized inland waterway trust fund. Second, annually adjust a ceiling to inflation. Third, amortize construction improvement costs over the life of each facility. When you build a new house, buy a new house or new farm, you buy it on the installment plan where you amortize it over 25 or 30 years, and if the life of the project is 50 years, you should pay for it over the 50 years. You shouldn't have to pay for it all up front. Fourth, provide adequate authority to the inland waterway user board by strengthening its resources and responsibility so that users are safe. Fifth, require congressional approval of the user board recommendations before any change in user fees occur.

Concerning title X, I realize you are going to have a hearing on that tomorrow. The National Council strongly believes that agriculture shippers should not be forced to subsidize deep draft dredging. They will not benefit, as grain is generally shipped in vessels with a 28- to 35-foot draft.

With these modifications the National Council is prepared to fully support the bill. We offer these recommendations constructively to help develop workable legislation.

Mr. Chairman, we stand ready to work with you to redefine Senate bill 1739. I will be pleased to answer any questions you may have.

Senator ABDNOR. Thank you, Mr. Eberwine. We appreciate your proposals and suggestions regarding the bill.

STATEMENT OF J. STEPHEN LUCAS, DIRECTOR, LOGISTICS AND OPERATIONS, LOUIS-DREYFUS CORP.

Mr. LUCAS. Thank you, Mr. Chairman, members of the committee. My name is Steve Lucas, I am director of logistics for the Louis-Dreyfus Corp. of Stamford, Conn.

I am chairman of the Barge Users Committee of the National Grain & Feed Association which I represent today. The National Grain & Feed Association is a volunteer association of grain and feed firms ranging in size from the smallest country elevator to the largest grain and feed complex and includes merchandisers, proces-

sors, warehousemen, and exporters of a wide spectrum of grains and feeds.

Its membership includes 1,300 direct memberships by individual firms and 45 affiliated State or regional grain and feed associations with a membership in excess of 10,000 grain and feed firms nationwide.

In keeping with your remarks, Mr. Chairman, I am going to ask that this statement be read into the record and I will give you the basic specific recommendations that we have with regard to Senate bill 1739.

Senator ABDNOR. Fine. We appreciate that, Mr. Lucas. I assure you the entire statement will be made part of the record and I appreciate your giving us suggestions.

Mr. LUCAS. Thank you, Mr. Chairman.

Let me first say that the National Grain & Feed Association supports the expenditures of public funds to the extent necessary to maintain a strong, viable waterway transportation system. However, we recognize that it may be necessary to rely on some type of user charge as an additional source of funds for the maintenance and operation of the waterway system.

It is our very strong belief that any such user charges should be assessed only when they are applied on a nondiscriminatory basis to the mode benefiting from public funding. Our industry has great concern over any policy change that could significantly add to the marketing cost of grain. Higher user fees for the inland waterways added to the fees already being assessed under Public Law 95-502 would further exacerbate the economic problems that already exist for agriculture producers and the grain marketing industry.

The direct primary effect of these increased waterway charges will be a decrease in the prices paid for grain in areas tributary to the inland waterways system and a concomitant decrease in the gross farm income in those same areas. Regrettably, though, Mr. Chairman, those farms whose production is tributary to the inland waterway system are not the only people to suffer from increased user charges.

Barge transportation has been shown time and again to be the price leader among transportation modes.

As such, a general increase in barge freight rates to recapture increased user fees would be reflected in increased rates by other modes of transportation. These increases notably in the rail rates would have the effect of reducing the price paid for grain in areas which have only land transportation available.

Just as with areas near the waterways, such transportation increases would be directly reflected in lower farm gross income in States where farmers move on the river system in Montana and South Dakota. Thus the National Grain & Feed Association has substantial reservations about supporting such legislation which we believe would have substantial adverse economic effect on the already depressed level of gross farm income in the United States.

Nevertheless we would like to offer the following specific recommendations:

First, title V would place an absolute ceiling of \$646 million on the amount of Federal funding available for construction, rehabilitation, operation, and maintenance. Although inflation has slack-

ened some in the past year we believe it is reasonable to project low to moderate rates of inflation in the next 16 years and for this reason we find it difficult to support an absolute freeze of public expenditures at 1983 levels from now until the dawn of the 21st century.

It would seem more reasonable to establish either a spending limit that is indexed to general cost increases or to maintain the Federal expenditures at a certain minimum percentage of total waterway system expenditures.

Second, the proposed cap is based on actual expenditures for 1983, a year in which you have heard the corps testify there were very few projects actually under construction. To use that minimal as a base year and to include the revenues from the existing waterways trust fund in the funding cap appears to us to be asking too much from both the barge and the agricultural industries involved.

Therefore, we would urge that the proposed cap not include those revenues derived from the inland waterways trust fund.

Third, we recognize that funding constraints will necessitate the assignment of priorities in the list of projects described in this bill. Of particular importance and urgency to the agricultural sector are the construction of the second chamber at lock and dam 26, construction of the new lock to replace the existing Bonneville lock and dam, and the construction of new locks to replace the existing Gallipolis locks and dam on the Ohio River.

Fourth, while we applaud, Mr. Chairman, the establishment of the User Board as a vehicle for industry input, the National Grain & Feed Association would strongly urge that the proposed legislation include specific guidelines on the makeup of the user board.

To quote No. 98-340, agricultural interests should have a strong voice on the Board with representation reflecting the revenues those commodities generate. We would support such language in the final version of this bill.

Lastly, we feel that section 504 is a laudable attempt to clarify the Secretary of the Army's authority to rehabilitate existing projects. However, this same section repeals the prohibition against tolls or operating charges which has been in effect since 1884.

The National Grain and Feed Association feels strongly that the language of the amending 1909 act should remain in effect to avoid the imposition by administrative order of user charges in excess of those specified in section 501. Section 502 also gives the Secretary of the Army authority to impose and collect user charges. And while some control over the level of user charges might be accomplished through the advisory committee, the Secretary is not bound to follow the Board's recommendation. Neither is he bound to follow the Board's recommendations regarding forms and methods of collection of those user charges.

We, therefore, favor a statutorily defined user charge maximum as well as statutory statement that any such user charges are to be uniformly imposed on all commercial waterways.

Mr. Chairman, no matter what the final outcome of this debate is on how inland waterways costs should be distributed between the public and private sectors, one point is abundantly clear. It is in everyone's best interest, the Federal Government, barge shippers, barge receivers, barge carriers, and the American consumer

and the American farmer to insure that adequate funds are available to rehabilitate and revitalize the inland waterway navigation system which has suffered too long from neglect.

Mr. Chairman, I would be happy to answer any questions you have.

Senator ABDNOR. Fine. We hope we have some time left. We have used up more than the 30 minutes.

**STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE
STATE OF MONTANA**

Senator BAUCUS. Mr. Chairman, I have an appointment at 11 o'clock which I absolutely must meet. And I have a short statement I'd like to make.

I want to thank you very much for holding these hearings. Last year before we recessed we had been wrestling with all of this and you have kindly agreed to postpone consideration of the bill to address the questions that we are examining here today. That means a lot to me. I know it means a lot to a lot of Americans too that we are addressing this.

I would like to say to the panel I share a lot of the concerns of the panel. I know other members share the same concerns as well. We all know we are going to be wrestling with this. But I suggest, as the chairman suggests, that if we work with each other we will try to find some more concrete ways to address some of the concerns that we do have.

It is easy for me to say that because I don't have them either but I hope that all of us buckle down a little more, all of us, and try to find those more concrete suggestions so that we can come closer to an agreement, a resolution to all of this. But I want to thank the panel very much as well as other members, other panels and other witnesses who have come.

Thank you, very much.

[Senator Baucus prepared statement appears at p. 6.]

Senator ABDNOR. I certainly want to thank the Senator from Montana for the time and effort and work he has put in this bill. I know there are a lot of things that he has the greatest concern about. It relates to agriculture. He has made the overall bill a lot better by his assistance in some areas that we had to come back to and paid specific attention to. He has made a great, great contribution. He does have these concerns. I have these concerns. Somebody has to push this and get something moving. That is why we did this today.

I thank you, very, very much for your time.

**STATEMENT OF RICHARD KOWALEWSKI, DIRECTOR,
TRANSPORTATION, FARMLAND INDUSTRIES**

Mr. KOWALEWSKI. Mr. Chairman, my name is Richard Kowalewski, director, transportation, Farmland Industries, Inc.

I am privileged to appear here today in behalf of the Fertilizer Institute and I would note as other witnesses have spoken my statement is getting shorter.

The fertilizer industry is a major user of the inland waterways system. According to the U.S. Department of Transportation's sec-

tion 205 inland waterway study, our industry transported 9 million tons of fertilizer raw materials and finished products through the waterways in fiscal year 1981.

A study by the Fertilizer Institute shows that 29 percent of all fertilizer transported moves by barge on a ton-mile basis.

The commitment of the Congress to the development and maintenance of the inland waterway system is an historical one.

The issue now is whether this commitment should continue as in the past or whether the major portion of the cost of the inland waterway system should be shifted from the Federal Government to specific segments of the economy.

The question to be considered is who will pay for any such charges. The fertilizer industry suffered heavy losses in 1982 and 1983. Based on this dismal economic picture, it is obvious that our industry could not absorb such increased fees and that we would have to pass them on to the American farmer in the form of higher fertilizer costs.

Similarly, the barge operators, with over one-third of their fleets idle due to decreased demand for transportation services are in no position to absorb increased user fees.

Their only option will be to charge the farmer higher rates to transport the American grain. Thus the farmer will be hit twice, he must pay a higher price for fertilizers and pay higher transportation rates to move his grain to market. We have already heard Dr. Rivlin's testimony quoted here today that was given to this committee 2 years ago. As bad as the picture painted by Dr. Rivlin is, I feel the real situation would be far worse for two reasons.

First to consider the full impact of user fees on grain exports, you must consider both inland waterway fees and port fees. Figures cited by Dr. Rivlin consider only inland fees.

Second, the 48-cent figure provided by the Corps of Engineers is conservative as the traffic diversion from the waterway is understated. The greater the diversion the higher the fee must be on the remaining traffic.

In short, the economic impact on the American farmer could be devastating. There is reason to be concerned whether U.S. grain will be able to compete in the world grain markets if the commodity is forced to absorb higher shipping costs in the form of user fees.

Agriculture exports have already suffered decreases of 23 percent between 1981 and 1983. Certainly such a potentially devastating impact on the U.S. balance of payments should be carefully considered by the Congress before proceeding with the title V of Senate bill 1739.

The fertilizer institute has a statement which I have submitted for the record. It addresses specific recommended changes in title V and they have already been discussed today, so I won't repeat them. I will reiterate that we believe that actual taxes and fees should be set by the Congress. That is done currently for highway fuel taxes and aviation fuel taxes. As users of the waterway system, we would not like to see those fees set by any type of bureaucracy.

It seems to us that the committee must consider the net revenue impact. Additional revenue might be generated by increasing the

fees but could be subsequently lost by increasing balance-of-payment deficits.

Senator ABDNOR. While we are on the subject. I am going to interrupt.

Do you agree some kind of a level ought to be—what is it? What do you think the level should be?

Mr. KOWALEWSKI. At least from my own company, I would say that when the fee was set in 1978, it was phased in at 2 cents per year, will be fully reached at 10 percent in 1985, and at that point will generate \$75 million a year in revenue.

I think that most users could live with reasonable fees of that nature, a phase in approach to the current tax to add on to that over a period of time. If it went to 20 cents over a period of an additional 5 years, that should logically generate \$150 million a year if there is not significant traffic diversion. If the construction schedule is set up, phased in in the appropriate way, that \$150 million a year might be efficient to fund the excess over the \$646 million.

Senator ABDNOR. That is something concrete. Would you all take issue with that? We had to leave it with the users board and while we wanted to give them complete authority, we think we have given them enough, as much as we could under the Constitution.

The message would be loud and clear. That is what they can recommend. I would like to hear from all of you on that but in your case, I just wondered if you think we are going to be able to find the rest of the money out of the Treasury under the circumstances? We haven't done a heck of a lot now in the way of increasing in 7 or 8 years. We haven't had a water bill out of here.

As far as user fees, that is one part of the bill. But you know we have cost sharing with all of the other projects. We are doing a lot of the things for the first time. We cannot seem to be carrying on like we have in the past. It would be great if we could.

I could think of a lot of things if we could just continue on like the good old days and go to the Treasury. But, somehow, we have to find some money. Do you think that this proposal you offered would do the job, particularly in view of the fact that it is going to be hard to find additional money from the Treasury, considering the fact that this committee, almost phased out what we have presently coming in?

What would you do? What is your backup proposal for us? That is what I want to hear. You cannot sit here and tell me, well, assuming I am doing things the wrong way, that I am going to put the cost on you and all along the Treasury has got the money, you just got to get it out of them. It isn't that simple.

I have been wanting water projects for years out in South Dakota. I think we have been shortchanged. It is hard to get things we have been promised let alone come here and find additional money.

Someone mentioned the cap we have. There hasn't been much money spent for new projects in years. I am talking about water projects, period. I just hate to see us standing still. I want to move forward. I want to do some of the things that are necessary.

I know it is going to be a burden of some consequence. I know there has to be a limitation of what we do to the farmer. I have a

great respect for the farmer. I am not directly involved like I was. I got out of it, I guess, a year ago. But I know the problem. But I want you to tell me.

Do you think what you are proposing is going to be enough to do, what we need to do over the years to come?

Mr. KOWALEWSKI. I think it could be. I was basing my suggestion on the assumption that we could obtain \$646 million a year from the genenal fund. But the way the user fee structure looks based on the information provided by the Corps of Engineers, the per gallon fee will vary substantially from year to year.

Some years it will generate a substantial amount of revenue, some years much less. Perhaps reaching the point where we generate a more equal amount in each year would provide the required funding over the long term.

Senator ABDNOR. Let me ask all of you.

Would you support something like that?

Mr. LUCAS. Mr. Chairman, I think we would have some difficulty supporting that proposal in total.

Senator ABDNOR. In other words, you don't want anything more than what you are paying today? That is where you want it to stop? I just want to know. If we cannot get any more money, is that the way you want it to go for the future? That is a hard question. That is what I have to know. Do we do nothing, continue on the way we are, or the chips are down; are we willing to figure out some way to find some money?

Mr. LUCAS. You are absolutely correct. That is a terribly difficult question. As Senator Baucus pointed out, in the Corps of Engineers' testimony, we need to raise somewhere around \$200 million a year to finance construction of a system that is already somewhere between 40 and 50 years old.

Our contention is though, Mr. Chairman, that to do that on the backs of the American farmers may not be the place to do it.

Senator ABDNOR. I can assure you, we are going to hear this from the coal people. They will be very conscientious and sincere about it. I am going to hear from the power people. They sure think they are going to pay it all. Someone is going to be paying for it. I hope we do a fair way of distributing it.

Mr. LUCAS. Mr. Chairman, with all due respect, you will hear testimony that the foreign buyer will pay it, that the barge carriers will absorb it, et cetera.

In the agriculture section, I believe that is not true. The bulk of those user fees imposed, whether it is 2 cents a bushel or \$2 a bushel, will be translated back to the lower prices, paid to that farmer in the produce of his farm.

Senator ABDNOR. I would like to hear all your comments.

Mr. CARLSON. I am a wheat grower. I can verify the fact I do pay the freight bill and probably will pay any increased costs. I think that is a given. That still doesn't solve the problem of where the money is going to come from. I am convinced that the \$646 million that you speak of is a good figure if it is indexed to inflation.

My concern is that any increased user fee should not come all at once. If it does, it is going to move cargo from one mode of transportation to another and cause a severe disruption of our traffic system.

I am convinced that we need to pay our fair share. I am convinced that Federal spending is much too high. That that is one of our major problems. We are prepared to pay our fair share of cost as long as it doesn't dislocate traffic from one load to another from one region onto another.

As long as that increased cost comes in, certain increments we are prepared to pay our fair share. That is a very difficult problem to grasp.

How do you do that?

Mr. EBERWINE. Mr. Chairman, our amortization schedule in the back of my testimony points out how much you can bill at a certain rate of interest. If we fund these over a long range project of 50 years over the lifetime, it works out that we need higher user fees to support that, then we would support a modest increase as Mr. Kowalewski pointed out, taking several years coming in, not coming in all at once.

Senator ABDNOR. Gentlemen, the hour is late. I have many people yet to hear from. Let me sum it up this way: The administration wants 70 percent paid for. I am bucking it. I am fighting it. This committee almost said we agree with the administration, wanted to phase out everything but we hung together.

The committee bill, allows slow and gradual shifts in costs. I think the rate we hope is going to be set by the users. That is where we are at the moment. We will take into consideration all of the material that we had. I am a little bit disappointed. I wanted more constructive things on how far we could go. I guess the balance is back with us.

We are going to be calling on you by way of written questions. But we do appreciate your coming. We know you are concerned. If we don't come up with some kind of a compromise on this, there will not be a project. There will be nothing. I am sorry. It will be that way.

I am convinced this Congress isn't going to go along with the \$200 billion deficit for too long. So you know the dilemma we are in. We are trying to come up with some answers. We asked you to help us. We will consider your information. We may be coming back with you with some very tough questions.

Thank you all.

Senator ABDNOR. Our next witness is Mr. Dempsey from the Association of American Railroads. I am going to be honest with you. You are not the kind of witness I wanted today. You have testified on this for 2 years.

**STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT,
ASSOCIATION OF AMERICAN RAILROADS, WASHINGTON, D.C.**

Mr. DEMPSEY. Mr. Chairman, I won't take much of your time. I am very glad you indicated that at the outset. I will just comment upon a couple of the proposals that were made. That may or may not be helpful to you.

You know the AAR's position on these issues. We recognize that even though we believe that ultimately we will have 100-percent recovery. We understand the practical difficulties of doing that over any short period of time. So, we would have supported the ad-

ministration's position on 70 percent or we would support the Simpson amendment or something of that sort that would improve what is now in title V, even though that improvement would require a period of years. I would simply add that the proposals that were made this morning seem to us to fall far short of what the Congress ought to do. The proposal, for example, that the \$646 million cap be indexed to inflation I think would pretty clearly result in overspending since that cap right now is substantially in excess of what the expenditures are. So, that seems to us to be something that should not gain any support.

The other proposal would in effect extend the existing system of a fuel tax and increase it over another 5-year period. That would result in the recapture of about \$150 million over the next 6 or 7 years, would pretty clearly, I think, result in a recovery of somewhat less than 20 percent of Federal expenditures, just on a quick calculation on my pad of paper. It would be something in that range. That, again, seems to us to be far from what the Congress ought to be considering in terms of an adequate level of recovery. I think with your permission, Mr. Chairman, I know that you will put my remarks in the record and I would be glad to answer any questions. I don't want to take more time.

Senator ABDNOR. I appreciate that. Your statement will be placed in the record. We will look at it. I know you have real strong feelings on this and you have constructive thoughts on it. We appreciate having them. As you can see, I have a long way to go to find some consensus.

Mr. DEMPSEY. I appreciate that. We appreciate the diligent way in which you proceed with these matters.

Senator ABDNOR. Thank you very much.

Our next witness is Mr. George French, vice chairman of the National Waterways Conference. I want to say one thing right now. I want to commend Mr. French. I looked at the testimony. You are one gentleman that did just what we asked for. If you didn't like what we had, you told us what we ought to do about it and made some suggestions, positive proposals and specific. I thank you and appreciate very much your doing it. That is what I had hoped to receive all day today.

Go through and summarize quickly if you can. I have looked at it.

**STATEMENT OF GEORGE R. FRENCH, JR., VICE CHAIRMAN,
NATIONAL WATERWAYS CONFERENCE, INC., WASHINGTON, D.C.**

Mr. FRENCH. Thank you, Senator.

Great credit is due to Harry Cook, sitting at my side here. My name is George R. French, Jr., vice president, distribution, of the Atlantic Cement Co., Stamford, Conn. I appear today as vice chairman of the National Waterways Conference, Inc., a nationwide association of waterway users and beneficiaries in both public and private sectors. With me at the witness table is Mr. Harry N. Cook, the association's president. I wish to submit for the record a prepared statement which is subscribed to in principle by a number of other waterway-related organizations.

Mr. Chairman, we would like to be able to submit, before the record of these hearings is closed, the names of any additional groups which may notify us of their general support of our statement.

[The information referred to follows:]

ALABAMA STATE DOCKS DEPARTMENT
Mobile, Alabama

AMERICAN INSTITUTE OF MERCHANT SHIPPING
Washington, D.C.

ARKANSAS BASIN DEVELOPMENT ASSOCIATION
Tulsa, Oklahoma

ARKANSAS-OKLAHOMA PORT OPERATORS ASSOCIATION
Catoosa, Oklahoma

ARKANSAS WATERWAYS COMMISSION
Little Rock, Arkansas

BI-STATE DEVELOPMENT AGENCY
St. Louis, Missouri

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS
New Orleans, Louisiana

CITY OF TULSA-ROGERS COUNTY PORT AUTHORITY
Catoosa, Oklahoma

GULF INTRACOASTAL CANAL ASSOCIATION
Friendswood, Texas

INLAND RIVERS PORTS & TERMINALS, INC.
St. Louis, Missouri

LOUISIANA INTRACOASTAL SEAWAY ASSOCIATION
Lafayette, Louisiana

NATIONAL CRUSHED STONE ASSOCIATION
Washington, D.C.

NATIONAL GRANGE
Washington, D.C.

PACIFIC NORTHWEST WATERWAYS ASSOCIATION
Vancouver, Washington

TRANSPORTATION INSTITUTE
Washington, D.C.

WARRIOR-TOMBIGBEE DEVELOPMENT ASSOCIATION
Birmingham, Alabama

WATER RESOURCES CONGRESS
Arlington, Virginia

Mr. FRENCH. We sincerely hope, Mr. Chairman, that these hearings bring Congress closer to the enactment this year of legislation authorizing necessary new projects. We realize that new cost-sharing procedures are likely to accompany new projects. Our concern is that new project authorizations and new cost-sharing rules be developed in tandem so as to enhance the vitality of the waterways rather than inflict irreparable damage to this important means of bulk transportation.

We urge you to fashion legislation that would simultaneously meet the twin goals of controlling navigation costs and providing user participation in all facets of the process, not just the repayment phase. Our detailed suggestions for amendments are spelled out in the prepared statement. I would like to summarize them briefly.

First, make the cap a transition measure. We recommend that the cap be set at a level which realistically reflects the level of navigation expenditures which are needed and the Federal interest in the inland waterway program but that the cap be operative only for a period of 3 years, not 14 years. Our proposed 3-year freeze would be tied to a commission of user representatives with a 3-year deadline to recommend a specific plan for the future development, maintenance, operation and funding of the Nation's inland navigation system.

While the cap is operative, we strongly urge that it apply only to Federal dollars. Revenues accruing to the existing inland waterways trust fund—into which are channeled user taxes already being paid by commercial waterway operators—should be treated separately. Trust fund revenues should be duly credited as user contributions over and above the legislated ceiling imposed by section 501.

Second, involve waterway users more directly. The concept of an Inland Waterway Users Board is intriguing. We are troubled, however, by the fact that the Users Board as constituted in title V is purely advisory and has no real authority. The Secretary of the Army might or might not choose to heed the Board's advice. As a vehicle for involving users in the decisionmaking process, we propose the creation of a commission of inland waterway interests which the President would appoint from lists of qualified individuals nominated by system users and beneficiaries which would have a clear mandate and which would have a deadline of 3 years.

It should be charged with recommending to the Congress a one-two-three plan for solving the problem of providing funds for a first-class navigation system. We are not talking about one more study. Instead, this commission would be directed to consider the voluminous data already developed on projected traffic growth, current and likely bottlenecks, the feasibility and economic impact of various cost-sharing schemes, et cetera.

From all the existing options, it would be charged to make a set of specific recommendations and hand them to the Congress in the form of a legislative proposal. Appendix A to our testimony describes the possible composition of the waterways commission we are recommending.

Third, limit the Secretary of the Army's discretionary authority. One of the most troubling aspects of title V is the fact that it would

grant virtually unlimited discretion to the administration to determine waterway spending levels and to impose user fees. Title V as currently written permits the Secretary to set the Army Corps of Engineers inland navigation budget and then charge users for any portion above the cap which is stipulated. In fact, as we read title V, he might even impose new tolls or user charges without first obligating the full amount of the cap.

Whether they are called user charges or user taxes, we believe Congress should refrain from delegating its revenue-raising prerogatives to the executive branch. This is Congress's responsibility. We are especially appalled at the possibility that the Secretary of the Army would be able to impose so-called congestion tolls at bottleneck facilities—which would be extremely disruptive to waterway shippers and carriers.

In appendix B, we suggest two amendments to restrict the Secretary's discretion in keeping with what we believe to be the legislative intent.

Fourth, retain congressional jurisdiction over waterways policy. The commission which we recommend should report to the Congress, not to the administration. Its plan of action should be deliberated and enacted into law with appropriate authorization, cost recovery and implementing mechanisms fully debated. The commission-developed solution which we propose is, in fact, quite similar to that offered for port maintenance in title X of S. 1739.

Also, we call your attention to a subtle flaw in the language of section 504 which we believe would virtually eliminate a congressional voice in waterway user fee decisions. This involves the repeal of the historic prohibition against waterway tolls or operating charges, leaving jurisdiction over such matters to the executive branch.

In short, Mr. Chairman, we are recommending to you that the subcommittee establish an Inland Waterway Users Commission to help control navigation expenditures and to draft a fair and equitable user charge plan. We propose that the Commission make its recommendations within 3 years and we pledge to you that whatever user charge plan the Commission might recommend in its report will involve no more Federal funding than is contemplated under the cap proposed in title V. If the Commission does its work and comes to grip with the crucial issues involved in the user charge debate, its recommendations could well lead the way out of the box in which we so often find ourselves: a battle over which new projects to authorize and how to pay for them.

In conclusion, we wish to make it clear that while the future may hold a larger role for users in financing navigation programs, a substantial Federal role is also justified. In this statement as in the past, we have called attention to the considerable benefits to the Nation's security and economic vitality which derive from the healthy system of waterway transportation. The country as a whole is a beneficiary.

Further, the Federal contribution is often small—mere seed money in comparison to the much larger private and non-Federal investments in America's productivity which follow navigable waterways. In the main, waterway investments have been sound investments. As we prepare to move into the 21st century, we want

to help you find just the right mix of partners to assure that the overall navigation investment continues with more productive results than ever before.

Thank you, Senator.

Senator ABDNOR. I want to thank you once again for that very positive statement and proposal, and the alternatives you have offered. They are going to be looked at very carefully. You wouldn't object, would you, for continuing the cap until Congress would act on any commission recommendation?

Mr. FRENCH. No, sir. We set a 3-year period as a desired report-back date. This is a very complex problem, as you know only too well—it is more than a commission could possibly handle in, say, one year. We say in 3 years they should be able to report back. If there would be a delay from that 3 years, we would see no objection with the cap continuing until Congress was to make its final decision.

Senator ABDNOR. Because of the shortness of time I have a hunch we will be back to you with additional questions and ask for your views. Again we thank you for this statement and your proposal and the alternatives. That is what we are searching for. We will give them all very careful consideration.

Thank you very much.

Mr. FRENCH. It is our pleasure. Thank you, Senator.

Senator ABDNOR. Our next witness is Mr. Joseph Farrell, president, The American Waterways Operators, Inc.

STATEMENT OF JOSEPH FARRELL, PRESIDENT, THE AMERICAN WATERWAYS OPERATORS, INC., ARLINGTON, VA.

Mr. FARRELL. Good morning, Senator.

As you have noted I am Joe Farrell, president of the American Waterways Operators [AWO] which is the national trade association for the barge and towing industry, both inland and coastal. You have our testimony. I am sure that you will insert it in full in the record.

Senator ABDNOR. I assure you the entire statement will be placed in the record.

Mr. FARRELL. Thank you, Mr. Chairman.

As you know, from reading the testimony we propose that there should be five tests in the making of public policy. Those five tests are: is the proposal fair to all the effected parties? Does it promote competition? Does it promote efficiency? Does it enhance commerce? And, lastly, does it assure the proper Federal balance with respect to the various modes?

We find S. 1739 has some very attractive and appealing qualities. However, I must say that we find that it does fail these tests and we would look forward to the extent that you all and your staffs would be willing to work with us in getting that legislation in a form which we could support. We would like to do that.

Let me very briefly highlight the problems that our industry sees in the legislation.

First, the concept of a User Board and a cap. In the form proposed in the legislation what is capped is the Federal contribution. What is not capped is the amount of many that would be au-

thorized and appropriated and signed by the President, leaving the private sector at risk. The Federal Government risk is capped. The private sector is not. We do not think that that necessarily has to be that way. We think that the legislation can be amended to prevent or overcome that problem.

Before I get into that, let me just say very briefly, I have heard and read reams and reams of commentary about the economics of the users paying more, that the market forces are going to drive the priorities. That completely overlooks the politics of these decisions. No User Board is ever going to preempt the Congress, shouldn't and can't under our Constitutional form of government. Whatever the User Board recommends the Congress ultimately is going to decide and I submit for your consideration that our industry should not pay for political decisions.

What we propose is that the User Board be upgraded in its status, it report to the Congress on an annual basis, perhaps more frequently, that if it recommends a certain level and if the Congress decides to authorize an appropriate above the cap, which we think should be raised, and above the recommendations of the User Board, then the Federal Government should pay that difference. That way you are going to have discipline on both sides, on the private side and on the Federal Government side.

We feel that it is inaccurate to say that the Federal contribution is \$646 million as long as the inland waterway trust fund is in that cap. We feel the trust fund should be removed. We also feel that there really is a fair share. I have not heard anybody quarrel with that. There has been a lot of controversy as to where the level is. And I don't understand why the Congress can't discover that level. Our association commissioned a nationally known consulting firm several years ago at I must say a very modest fee to take a crack at that problem.

That study is in its final stages. We would be happy to share the results with you. But the point is not that. The point is if AWO can do it, surely the Federal Government can do it.

Senator ABDNOR. When will that be done?

Mr. FARRELL. I would expect in the next couple of months, Senator.

Let me move on to the port title.

Just a few highlight remarks again. I think it needs to be noted that the ports are a vital part of the U.S. economy. The Federal Government has an important leadership role in the development and maintenance of our ports. We feel that the Commission that you propose is a good idea. My recommendation, however, would be rather than the Commission to determine what level of user fee for O&M is appropriate, that it look at whether or not it is a good idea to charge the user fee in the first place.

Two points: The Department of Commerce, the EDA within the Department of Commerce, recently published a report which shows that a 25-cent-a-ton-mile collection for O&M would result in a net loss of about \$110 million, I think it is, to the U.S. Treasury.

There are really two questions which must be answered. First of all, what is right, fair and appropriate? Second of all, is it good business? Are we just willy-nilly going to impose a user tax on some not well thought through principle?

My second comment is on the superports. They must be built if it is the national policy that we need one or more superports. Incidentally, I am not aware of any national look at this subject. It is another thing that needs better attention from the Government, in my judgment. But if it is national policy to have one or more superports, why should the shallow draft industry that doesn't benefit from them pay for them? It should not.

I would be glad to answer any questions you might have, Mr. Chairman.

Senator ABDNOR. Thank you.

I know you have followed our deliberations ever since we started. You certainly have an important interest in it representing the American Waterway Operators. Have you given any thought to the National Waterways Conference proposal?

Mr. FARRELL. I haven't had a chance to study NWC's testimony. I have seen it. I find some things of merit in there. I am bothered by the notion again of a delay which I am sure bothers you also. It seems to me that we need to get on with this. Your own watchdog arm, the GAO, published just this month a report which indicates that it takes 21 years from the time a study is authorized until the project is begun, not finished. You all are rightfully very interested in efficiency. But I submit to you that we must get a lot more efficient than taking 21 years from the time of authorizing a study until we begin work on the project.

Senator ABDNOR. In prior legislation we had what we called fast tracking and tried to fast track some of the projects. Part of the reason is we can't get the users together on what we ought to do. I have been 2½ years holding hearings on this. Sometimes I wonder if I am any farther along today in trying to get some consensus than I was when I started. That doesn't help progress.

Have you looked at some testimony by chance, did you pick up any of the testimony of Mr. Lehman who will be appearing before us tomorrow?

Mr. FARRELL. I received a copy of that last night from the President and CEO of ACBL. I have scanned it. It is interesting. The notion of segment specific fees or the segment specific approach has a certain appeal with respect to efficiency. A couple of comments of concern that I have as I understand ACBL's testimony to be given tomorrow.

First of all, while they talk about different regions they dwell entirely on the midcontinent region and the GIWW and all the waters that flow into it, including the western rivers. Those are the low-cost segments. It needs to be noted that ACBL dwells on the low-cost segment which ACBL sits astride.

There has been some talk, perhaps you are familiar with it, Mr. Chairman, about pruning the branches so that the trunk gets healthy. How about cutting off the fingers, you know. You don't have any fist left. There are 400 million tons of cargo that went down the lower Mississippi River in 1982. All of that didn't come from the main stem rivers. Much of it came from the tributaries. I am sure that you want to devote adequate attention to the advisability of shutting some of these tributaries down? Is that really going to help the country?

Senator ABDNOR. We appreciate that. Since I have you up here I wanted to get reactions to different proposals. We are always glad to get somebody's ideas and thoughts and find out how they are accepted by other groups. So we appreciate your being willing to give us that much of a comment. We thank you very, very much. We know you are accessible. We probably will be talking to you again on this subject. We are going to give careful consideration to new proposals, new ideas. If you have anything new, don't hesitate to bring them to us. Thank you very much.

Mr. FARRELL. Thank you, Mr. Chairman. We enjoy working with you and the staff.

Senator ABDNOR. We appreciate it.

Thank you.

The next witness is Mr. Ogden, president, Sunedco Coal Co. You are representing the coal people?

**STATEMENT OF S. O. OGDEN, PRESIDENT, SUNEDCO COAL CO.,
ACCOMPANIED BY MARK R. JOSEPH, PRESIDENT, ANKER
ENERGY CORP.**

Mr. OGDEN. Yes, sir.

First of all, Mr. Chairman, we very much appreciate the opportunity to visit with you today.

We are very cognizant of the time constraint. We are not going to impose.

I am S. O. Ogden, president of Sunedco Coal Co. and serve as chairman of the transportation committee of the National Coal Association.

I have with me my colleague, Mr. Mark R. Joseph, president of Anker Energy Corp. who also serves as chairman of NCA's affiliate, Coal Exporters Association. In addition we have Mrs. Connie Holmes, vice president of international trade of the National Coal Association and Mr. Joseph Lema, vice president of transportation for the National Coal Association.

We have submitted written testimony for the record, so we are not going to attempt to cover the whole statement, but only some specifics.

First of all we agree with much of what we have heard today. Certainly, we commend you on your leadership in moving forward on this legislation which we believe is essential. We do need to make these improvements in the inland waterways and deal with our deep draft ports as expeditiously as possible and we commend you on your efforts.

I would talk about title V. Mr. Joseph will address title X.

In title V there are several comments that I will make. First, relative to the designated improvements in the inland waterways system, we certainly support the four that are provided.

We also agree with, and take some comfort from the comments that you addressed to the Senators from Alabama. We think that the Oliver lock likewise needs to be included and we would urge the committee to do so.

Moving on to the funding and the problem that we have been dealing with this morning. First, let me comment relative to the trust fund. The trust fund was created in 1978. It has been support-

ed and funded and is being funded with the understanding that it would be for construction and rehabilitation. We would urge that that fund continue to be designated and in fact those moneys be a source to undertake the improvements of the four locks that your bill currently proposes, in addition to the Oliver lock.

We would urge the trust fund moneys not be commingled with the cap that addresses operation and maintenance.

That leaves us with how do we cover the operation and maintenance? That is a concern that you have addressed this morning. I recognize that it is much more difficult than we would like to think.

At this point, I would simply say the Congress should determine what is needed in terms of a user fee, and I suspect that is a proper area of deliberation.

We would urge that in moving to implement any new user fees, any increases in the charges for use of the inland waterway system, four considerations be involved in developing that approach.

First, that such new fees be utilized to help cover navigation costs only; second, again consistent with some earlier recommendations that it be phased in over some period of time in order to be as nondisruptive as possible; third, we believe that it should be applied as a systemwide fuel tax which should work as well as any other approach in terms of how would you spread the cost and collect the fees.

Senator ABDNOR. To do what now?

Mr. OGDEN. That any new fees be spread on a systemwide basis in the form of a fuel tax. That is what we have done to fund the trust fund. We think that is probably as workable an approach and it is easily administered as any other approach in addressing new fees.

Finally, we think that the best arrangement is to tie these new fees to in fact much needed accelerated improvements in the inland waterway system.

The national waterway conference representative suggested a commission that might study it for 3 years, based on my observations of the testimony today it does appear that further study might be useful.

We are a long way from consensus. I can appreciate the problem. I believe he suggested that that commission might work for 3 years. My personal opinion is it should be moved to a little bit shorter period, perhaps, half of that time period, 18 months or perhaps 2 years and get on with the very necessary improvements.

Finally, we share some of the concerns that have already been addressed today, relative to the role of the Secretary of the Army with the help of a user board which would indeed be advisory.

We agree that that is probably not the best approach to come up with new forms of taxes or fees to fund those improvements. We would agree that that determination best be left with the Congress.

Senator ABDNOR. With that exception, could you go along with the proposal?

Mr. OGDEN. We would come closer to supporting that than any other approach that we have heard. Without going any further on

Inland Waterway issues, I will ask Mr. Joseph now to address title X.

Mr. JOSEPH. Thank you, Mr. Chairman.

As Mr. Ogden mentioned, I am Mark R. Joseph, president, Anker Energy Corp. and chairman of the Coal Exporters Association.

I will limit my remarks to title X of S. 1739 which addresses the need to maintain and improve the Nation's coastal ports and harbors. At the outset, let me emphasize that the National Coal Association was among the first to acknowledge that despite demonstrated need our coastal port would not be dredged without a requirement on the part of the ports users to pay at least part of the project costs.

Accordingly, we adopted the position which was supportive of legislation authorizing dredging projects to be paid at least in part by local port user interests. However, we do not believe that S. 1739 title X will accomplish the dual goals of providing adequate incentives to insure accomplishment of port and harbor improvements while providing the mechanism to spread the costs of these projects and the maintenance of the harbor system equitably between all beneficiaries of these projects.

Annual operations and maintenance costs are addressed by section 1001 which would create a National Commission on Harbor Maintenance to prepare recommendations on the level of recovery of harbor maintenance costs and on the way these costs should be recovered.

S. 1739 places a cap on spending for O&M until Congress acts on the Commission's recommendations.

We agree that cost recovery for operation and maintenance of coastal ports has been controversial but an acceptable compromise has already been succeeded in S. 865, which is before this committee. S. 865 would impose a nationwide user fee on the value of the cargo to fund 40 percent of the annual costs of operation and maintenance in coastal ports.

The fee which would be imposed on all traffic using coastal ports would be phased in over a 3-year period and would be capped at a maximum 0.06 percent of the dollar value of the cargo.

Section 1003 and 1004 of S. 1739 establishes policy for the construction and maintenance of general cargo harbors and deep draft harbors.

The Federal Government would assume 70 percent of the cost of improving general cargo harbors but none of the costs of deepening harbors below the 45-foot mark.

We believe that this proposed policy ignores benefits which accrue to the national economy from deep-draft ports. An increase in trade occasioned by the ability to load deep-draft vessels benefits a far wider segment than the port area, shipper, or customer. The methodology proposed by S. 865 recognizes that benefits of harbor improvements accrue to the port, shipper, and to the general economy. S. 865 suggests a sliding scale. The deeper the depth, the greater the local share of the cost. This type of formula helps retain the current competitive structure of our port system.

Sections 1003 and 1004 of S. 1739 would require that all local costs of construction of new projects be advanced by the port itself during the period of construction. Although a Federal guarantee

would be issued, the Federal Government would not issue any guarantee for any bond or loan on which interest is exempt from Federal taxation.

This would eliminate the ports' traditional form of financing, industrial revenue bonds. The burden of these financing costs would act as a significant deterrent to any port improvement project. It would be impossible to begin repayment of these loans during the construction period as fees cannot be levied on traffic which cannot take advantage of the cost savings offered by the improvement project. Any port dredging legislation should include assurance that the Federal Government will advance 100 percent of the funds needed to complete the project with repayment to start only after completion.

Section 1006 of S. 1739 directs the ports to collect 80 percent of the costs of dredging and maintaining deeper channel depths from the traffic deriving benefits from the improvement.

While we agree, and our position so states, that there should be a direct link between user fee and benefit, that link should be established by the port after full public hearing.

The language of S. 1739 is too specific and gives the port no latitude to meet the commercial and competitive situation faced by that individual port.

We would like to suggest that the language of S. 865 should be substituted for title X as the incentives offered by S. 865 will be more likely to result in an improved port system capable of handling the largest vessel types which would make up the majority of the ocean traffic in future years.

Thank you, very much and we would be pleased to answer any questions.

Senator ABDNOR. Thank you.

First, let's go back.

There is a study going on, is there not? You have a study on deepwater ports, didn't you? I guess the FCE study.

Do you recall such a study?

Mrs. HOLMES. Yes; there are several studies.

Senator ABDNOR. How much deepwater coal ports are you studying? Can you identify them?

Mrs. HOLMES. When we submitted testimony before the committee last June, Senator, we included the results of the study of the National Coal Association on deep-draft ports. Most specifically, we looked at Hampton Roads, Baltimore, New Orleans, Baton Rouge, and the Mobile area.

Senator ABDNOR. How many did you identify in the study as potentials? Is it 14?

Mrs. HOLMES. There are several ports that would like to take advantage, I am sure, of authorization to go deeper. But I think we have to remember—

Senator ABDNOR. No; but you know there are those who are seeking deepwater ports. I think you identified more.

Mrs. HOLMES. Yes; we did. I am sorry that I cannot recall the exact number. We did include the identification, however, of ports that are looking to go from, say, 30 to 35 feet as well as maybe 45 to 55 feet which, of course, substantially increases the number of ports under consideration.

Senator ABDNOR. Did I hear someone this morning say they thought one or two ports is enough in the deepwater ports?

Mrs. HOLMES. It is quite possible. When you look at future trade and when each port does an economic analysis of the benefits that would accrue to that port through completion of the project, the port may decide it is not worth, that it cannot pay the costs associated with dredging. But we do believe that each individual port has to look at the situation from their own commercial position and should make a decision on the basis of their own individual study of economic merits of the project.

Senator ABDNOR. I am glad you agree. That is exactly our concern from this legislation. We don't think that is about to happen. Someone here said a moment ago that this would be kind of a consensus among all. I can say maybe it is a consensus of a group on the outside. But when you start talking to the Senators like I have had, we have had private meetings with the leadership, we walked out of there without any kind of consensus.

I tell you that one particularly was just pointblank told by pretty influential people, including those on the committee, that it is going no where. So we thought we would like to get something moving, that could be agreed to. We think the possibility is there in the proposal that we came up with. However, that is what we are going to be listening to today. We have gotten into that, and we will have a lot more tomorrow and some better ideas.

I can assure you we are willing to listen. But to say that if 865 is kind of a consensus of all groups, Members of Congress, I can tell you that that is not the way we have found it.

We appreciate your statement. You can certainly give it great consideration because I know the Coal Association is deeply concerned and involved and would be affected by whatever we do. That has been my concern, the number of ports being asked for.

Believe me, again, some have respected Members of this Congress and the Senate have desires, would like to have ports in their communities.

It is kind of the way things go. They just came out for it. I agree we do not at this time need all kinds of deepwater ports around here. That is how we get into these things sometimes. So we are trying to prevent that from happening and only have it where it is developed, where they can afford it, where they are going to pay off and are necessary.

So, hopefully, this whole set of hearings and additional information we are receiving, that we have received so far today, that we will continue to receive tomorrow. We will come up with a study and the rest of the committee will agree and we will see what we can do.

I thank you all very much.

Mr. OGDEN. We certainly commend you and the committee on the good work you have done, Mr. Chairman. It is not easy. We have heard a lot of difficult comments this morning that have to be addressed. But, certainly, the Coal Association would urge you to continue the good work you have started and get this much needed legislation in place.

Thank you.

Senator ABDNOR. Thank you.

I would like to think that we are on the right track. It is not to say we have got all the answers here.

Mr. OGDEN. You have come a long way. We would like to see it pursued and successfully completed.

Senator ABDNOR. Thank you.

The committee will stand in adjournment until tomorrow morning at 9 o'clock.

[Whereupon, at 12 o'clock noon, the subcommittee recessed, to reconvene at 9 a.m., January 25, 1984.]

[Statements submitted for the record follow:]

STATEMENT OF SENATOR JEREMIAH DENTON
BEFORE THE SENATE ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON WATER RESOURCES

JANUARY 24, 1984

MR. CHAIRMAN, MEMBERS OF THE SENATE ENVIRONMENT AND PUBLIC WORKS SUBCOMMITTEE ON WATER RESOURCES, I WANT TO THANK YOU FOR ALLOWING THE SENIOR SENATOR FROM ALABAMA (SENATOR HEFLIN) AND I THE PRIVILEGE OF APPEARING BEFORE YOUR SUBCOMMITTEE TODAY. THE PURPOSE OF MY TESTIMONY IS TO SEEK COMMITTEE SUPPORT FOR AN AMENDMENT TO S. 1739, THE OMNIBUS WATER RESOURCES BILL, TO AUTHORIZE FUNDING FOR THE REPLACEMENT OF OLIVER LOCK AND DAM ON THE BLACK-WARRIOR TOBIBGREE RIVER AT TUSCALOOSA, ALABAMA.

IN MY OWN STATE, ALABAMA, WE ARE BLESSED WITH STRATEGICALLY LOCATED NAVIGABLE WATERWAYS. THE BUSIEST OF OUR WATERWAYS IS THE WARRIOR-TOBIBGREE, WHICH FLOWS FROM THE COAL RICH WARRIOR BASIN IN NORTHWEST ALABAMA THROUGH ITS INDUSTRIAL HEARTLAND AROUND BIRMINGHAM SOUTH TO THE PORT OF MOBILE.

THE WARRIOR-TOMBIGBEE WATERWAY NOW HAS A SYSTEM OF MODERN LOCKS AND DAMS WITH THE EXCEPTION OF ONE LOCK, WILLIAM BACON OLIVER. WHILE PRIOR TO THE LATE 1970'S THE WATERWAY HAD OPERATED IN A GENERALLY EFFICIENT AND RELIABLE MANNER, WE NOW HAVE A NEW SET OF CIRCUMSTANCES. THESE NEW CIRCUMSTANCES REFLECT NOT ONLY THE IMPRESSIVE INCREASED USAGE OF THE WATERWAY AND THE RAVAGES OF TIME AND THE ELEMENTS, BUT EVEN MORE THE INCREASING WORLD-WIDE DEMAND FOR ENERGY AND FOOD. MR. CHAIRMAN, THAT DEMAND WILL CONTINUE TO GROW.

AS TO ENERGY, SOME ESTIMATES INDICATE THAT 10% OF OUR NATION'S COAL RESERVES ARE LOCATED IN THE WARRIOR BASIN. ALMOST 80% OF THE COAL TRAFFIC HANDLED BY THE PORT OF MOBILE ARRIVES THERE BY BARGE FROM THE WARRIOR BASIN, AND OVER 4 MILLION TONS OF COAL MOVE VIA THIS WATERWAY TO THE ELECTRIC GENERATING PLANTS IN OUR AREA. WE HAVE A NUMBER OF LARGE AND EXPERIENCED MINING OPERATIONS IN THE AREA, AS WELL AS

OTHERS CAPABLE OF SUBSTANTIAL GROWTH. THE DEVELOPMENT OF THESE COAL RESERVES, THE SKILLS AND EXPERIENCE OF OUR PEOPLE, AND THE GROWING WORLD-WIDE DEMAND HAVE CREATED NEW DEMANDS ON THE WATERWAY. AS TO FOOD, FARMERS FROM TWENTY-ONE (21) ALABAMA AND MISSISSIPPI COUNTIES SHIP THEIR GRAIN TO MOBILE FOR EXPORT VIA THE WATERWAY. SEVERAL THOUSAND AMERICAN FARM FAMILIES ARE DEPENDENT ON THE WATERWAY FOR EFFICIENT TRANSPORTATION OF THEIR PRODUCTS. IN ALABAMA, AS IN THE NATION, THEIR LARGEST CASH CROP IS SOY BEANS.

THERE ARE MANY OTHER COMMODITIES MOVING ON THE WATERWAY, SUCH AS ORES, CRUDE AND FUEL OILS, STEEL PRODUCTS, CHEMICALS, AGGREGATES AND WOOD PRODUCTS. RELATED INDUSTRIES, THOUGH NOW STILL IMPACTED BY THE WORLD-WIDE RECESSION, PLAN TO GROW AND MODERNIZE. THESE EVER-INCREASING DEMANDS REQUIRE THAT THE WARRIOR-TOMBIGBEE OPERATE AT PEAK EFFICIENCY ON A FULL-TIME BASIS.

IN ALABAMA, SHIPMENTS OF ORE, STEEL AND RELATED PRODUCTS ARE EXPECTED TO MORE THAN TRIPLE BY 1985 BECAUSE OF NEW AND MODERN MANUFACTURING CAPABILITIES IN ALABAMA STEEL PRODUCTION FACILITIES. CONFIDENCE IN THE CONTINUED EFFICIENCY AND MODERNIZATION OF THE WATERWAY WERE IMPORTANT IN U.S. STEEL'S RECENT DECISION ON REACTIVATION AND FURTHER MODERNIZATION OF THEIR FAIRFIELD FACILITIES. THIS EFFICIENCY AND RELIABILITY WILL BE SIGNIFICANT FACTORS IN THE COMPETITIVENESS OF THESE FACILITIES. THOUSANDS OF JOBS HANG IN THE BALANCE, CRITICAL TO AN AREA WITH UNEMPLOYMENT AMONG THE HIGHEST IN THE NATION.

THEREFORE IT IS NOTABLE, DUE TO THE ANTIQUATED, OUTDATED OLIVER LOCK AND DAM , BARGE TRAFFIC ON THE BLACK-WARRIOR CAN NOT OPERATE WITH MAXIMUM PERFORMANCE AND EFFICIENCY AND HAS CREATED A SERIOUS BARGE TRAFFIC BOTTLENECK.

OLIVER WAS BUILT BEFORE WORLD WAR II, AND TODAY IS SUBSTANDARD IN DESIGN AND DIMENSION BEING 95 FEET BY 460 FEET. THE OTHER LOCKS ON THE OLIVER LOCK AND DAM ARE 110 FEET BY 600 FEET. THE OTHER FIVE LOCKS WERE COMPLETED AND OPENED TO NAVIGATION BETWEEN 1954 AND 1975 AND ARE OF MODERN DESIGN AND DIMENSIONS. THE SMALLER DIMENSIONS OF THE OLIVER LOCK CHAMBER WERE SELECTED IN THE EARLY 30'S WHEN THE TYPICAL SIZE OF A BARGE WAS 25 FEET BY 140 FEET, AND TOWBOATS WERE NOT AS POWERFUL AS THEY ARE TODAY. DURING THAT PERIOD, TRAFFIC ALONG THIS PORTION OF THE RIVER HOVERED AROUND 700,000 TONS PER YEAR. SINCE THAT TIME, THE AMOUNT OF TRAFFIC INCREASED TO 15 MILLION TONS BY THE LATE 1970'S. THIS TREND IS EXPECTED TO INCREASE INTO THE 1990'S.

INTERIM STEPS ARE BEING TAKEN TO AMELIORATE THIS SITUATION AND ALLOW TRAFFIC GROWTH TO CONTINUE, PENDING CONSTRUCTION OF A NEW, FULL-SIZE LOCK. YET EVEN WITH THESE TEMPORARY IMPROVEMENTS, THERE IS A PRACTICAL UPPER LIMIT

TONNAGE THAT IS ABLE TO BE PASSED THROUGH OLIVER LOCK. THIS LIMIT OF 25.5 MILLION TONS IS PROJECTED TO BE REACHED BY 1987, JUST FOUR YEARS FROM NOW.

I BELIEVE THAT IT MAKES LITTLE SENSE TO HAVE MADE LARGE CAPITOL INVESTMENTS IN WATERWAY PROJECTS THROUGHOUT THE NATION YET NOT PROVIDE FOR UPDATING AND UPGRADING REPLACEMENT FACILITIES NEEDED AT A LEVEL AT WHICH TAXPAYERS CAN REALIZE THE BENEFITS OF THEIR INITIAL INVESTMENT. THIS IS SOMEWHAT LIKE BUYING A NEW CAR AND THEN NOT BUYING NEW TIRES FOR IT WHEN THE OLD ONES WEAR OUT, OR NOT HAVING THE CAR TUNED UP OR WINTERIZED SO THAT YOUR CAR CAN BE DRIVEN AT MAXIMUM PERFORMANCE.

MR. CHAIRMAN, I BELIEVE THAT THIS COUNTRY HAS REACHED A POINT IN ITS HISTORY WHERE MAJOR DECISIONS MUST BE MADE CONCERNING THE FUTURE OF OUR WATERWAYS AND PORTS THAT WILL AFFECT BOTH OUR INTERSTATE, INTRASTATE, INTERNATIONAL TRADE

AS WELL AS OUR UNEMPLOYMENT POSTURE. I URGE THIS COMMITTEE TO DO EVERYTHING POSSIBLE TO ASSURE THAT OUR WATERWAYS ARE MAINTAINED AND OPERATED, HELPING TO SECURE AMERICA'S POSITION AS A COMPETITIVE LEADER IN INTERNATIONAL TRADE AND COMMERCE. EVERYDAY AMERICANS THAT MINE, MANUFACTURE, PROCESS, FARM AND WORK AT CONSTRUCTION RELATED JOBS, DEPEND HEAVILY UPON WATERWAY TRANSPORTATION TO GET THEIR GOODS TO MARKET.

MILLIONS OF DOLLARS HAVE BEEN INVESTED IN THE BLACK-WARRIOR BY INDUSTRY, FARMERS AND GOVERNMENT AGENCIES, PROVIDING THOUSANDS OF JOBS. I WOULD LIKE TO REMIND YOU THAT LESS THAN TWO YEARS AGO ALABAMA HAD THE SECOND HIGHEST UNEMPLOYMENT RATE IN THE NATION. UNEMPLOYMENT HAS BEEN REDUCED IN ALABAMA PARTIALLY DUE TO EXPANDING INDUSTRIES LIKE THE ORE, STEEL, COAL AND AGRICULTURE INDUSTRIES THAT TRANSPORT ON THE BLACK-WARRIOR.

YET IF WE DO NOT CONTINUE TO UPGRADE AND MAINTAIN
COMPETITIVE WATERWAYS, JOBS FOR COUNTLESS THOUSANDS OF
AMERICANS COULD BE JEOPARDIZED. THE REPLACEMENT OF THE
OLIVER LOCK AND DAM IS ESSENTIAL TO ALABAMA AND THE NATION
IF WE ARE TO REMAIN COMPETITIVE WITH OTHER COUNTRIES SEEKING
TO CAPTURE OUR WORLD MARKETS. IT IS ALSO ESSENTIAL IF WE
ARE GOING TO CONTINUE TO REDUCE UNEMPLOYMENT AND IMPROVE OUR
ECONOMY.

STATEMENT OF SENATOR HOWELL T. HEFLIN
IN SUPPORT OF THE REPLACEMENT OF THE LOCK AT
THE WILLIAM BACON OLIVER LOCK AND DAM
SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

JANUARY 24, 1984

MR. CHAIRMAN, I, TOO, SHOULD LIKE TO URGE THIS COMMITTEE TO AUTHORIZE FOR CONSTRUCTION A NEW LOCK AND DAM TO REPLACE THE EXISTING WILLIAM BACON OLIVER LOCK AND DAM ON THE BLACK WARRIOR RIVER IN THE VICINITY OF TUSCALOOSA, ALABAMA. THIS PROJECT IS ENVISIONED IN THE PROVISIONS OF THE NATIONAL INLAND WATERWAYS URGENT IMPROVEMENT ACT OF 1983, S.1171, INTRODUCED IN APRIL OF LAST YEAR BY THE DISTINGUISHED SENIOR SENATOR FROM PENNSYLVANIA, MR. HEINZ.

WITH THE CONSTRUCTION OF THIS PROJECT, MR. CHAIRMAN, THE STRUCTURAL MODERNIZATION OF THE WARRIOR-TOMBIGBEE WATERWAY SHOULD BE SUBSTANTIALLY COMPLETE. IRONICALLY, THE EXISTING OLIVER LOCK AND DAM WAS THE FIRST MODERNIZATION STRUCTURE BUILT UNDER THE REMODERNIZATION PROGRAM WHICH BEGAN IN 1937. TIME AND PROGRESS, HOWEVER, HAVE PASSED THE LOCK AND DAM BY, HOWEVER, AND THE NEW LOCK AND DAM ARE URGENTLY NEEDED FOR THE EFFICIENT OPERATION OF THE RIVER SYSTEM.

THE STUDY CONCERNING THE LOCK AND DAM REPLACEMENT FOR THE OLIVER DAM BEGAN IN 1950 PURSUANT TO THE PROVISIONS OF A RESOLUTION ADOPTED BY THE COMMITTEE ON PUBLIC WORKS OF THE HOUSE OF REPRESENTATIVES WHICH DIRECTED THE ARMY ENGINEERS TO EXAMINE THE ENTIRE WARRIOR-TOMBIGBEE SYSTEM FOR POSSIBLE MODIFICATION.

THE OLIVER LOCK REPLACEMENT STUDY BY THE ARMY ENGINEERS REVEALS THAT IT IS ECONOMICALLY FEASIBLE TO REPLACE THE OLIVER LOCK. LAST YEAR, SPECIFICALLY ON APRIL 12, THE DISTRICT ENGINEER AT MOBILE CONDUCTED A PUBLIC HEARING ON THE

FINDINGS AND RECOMMENDATIONS CONTAINED IN THE STUDY TO OBTAIN THE VIEWS AND SENTIMENTS OF ALL AFFECTED AND INTERESTED PARTIES. I AM GRATIFIED TO REPORT THAT THE RESPONSE WAS OVERWHELMINGLY IN SUPPORT OF A NEW, FULL-SIZED REPLACEMENT FOR THE OLIVER LOCK.

THE INTERIM FEASIBILITY REPORT AND THE ENVIRONMENTAL IMPACT STATEMENT FOR THE REPLACEMENT OF THE OLIVER LOCK IS QUITE LENGTHY AND, I MIGHT ADD, THOROUGH. THE DISTRICT ENGINEER AT MOBILE AND HIS VERY CAPABLE STAFF ARE TO BE COMMENDED FOR THEIR OUTSTANDING WORK IN CONNECTION WITH THE STUDY. I WOULD ALSO ADD THAT THE BOARD OF ENGINEERS FOR RIVERS AND HARBORS HAS RECOMMENDED FAVORABLE ACTION ON THE OLIVER LOCK REPLACEMENT REPORT TO THE CHIEF OF ENGINEERS. APPENDED TO MY REMARKS IS A REPRODUCTION OF THE SYLLABUS RELATIVE TO THE OLIVER LOCK REPLACEMENT STUDY. IT SETS FORTH IN ABBREVIATED FORM THE CASE FOR THE NEW LOCK AND DAM. THE BENEFIT-COST RATIO IS, I MIGHT EMPHASIZE, OVER THREE TO ONE.

IN THIS TIME OF ECONOMIC TRANSITION AND RECOVERY, WE CANNOT AFFORD TO IGNORE ANY FEASIBLE OPPORTUNITY FOR ECONOMIC GROWTH. THE COMPLETE MODERNIZATION OF THE GREAT WARRIOR-TOMBIGBEE WATERWAY OFFERS SUCH AN OPPORTUNITY. WITH THE REPLACEMENT OF THE OLIVER LOCK, WE SHALL HAVE MOVED AN IMPORTANT STEP CLOSER TO THE FULFILLMENT OF THIS IMPORTANT OBJECTIVE.

I ALSO OFFER FOR INCLUSION IN THE RECORD A STATEMENT BY COLONEL OFFA S. NICHOLS, JR., PRESIDENT OF THE WARRIOR-TOMBIGBEE DEVELOPMENT ASSOCIATION IN BEHALF OF THE OLIVER LOCK REPLACEMENT.

THANK YOU.

Syllabus

This report is an interim response to a 1950 House of Representatives resolution requesting the Black Warrior-Tombigbee river system be examined for possible modification.

Subsequent to the construction of William Bacon Oliver Lock in the late 1930's, a larger chamber size was adopted for new locks being built on the waterway. Therefore, Oliver Lock has the smallest chamber of the six locks on the waterway. Traffic through the lock has increased threefold since Oliver was opened and is predicted to nearly double in the next 20 years. The six-barge tow which is now being used cannot be accommodated in Oliver, hence a significant delay occurs since it is forced to double lock. The use of six-barge tows has caused the Oliver Lock to become incompatible with the five other locks on the waterway.

The report defines several options for solving the traffic delay problem at the Oliver project. In addition to the no action alternative, structural and nonstructural measures were considered. The most comprehensive and complete solution would be replacement with a larger lock chamber of 110 x 600 feet located at either of three different sites. Benefits to navigation were basically the same regardless of location, but consideration of site impacts and economic costs led to the selection of a site 2,700 feet downstream from the existing project.

The feasibility of including hydropower generation at the new Oliver Lock site was investigated in conjunction with the navigation study. It was determined that a small scale hydropower plant of 16.3 megawatts could be economically justified for construction concurrent with the development for lock replacement.

Federal first cost for the navigation modifications amount to \$103,400,000, while the hydropower first cost is \$14,900,000 for a total of \$118,300,000. The tentatively selected plan would provide total average annual benefits of \$19,300,000, of which \$15,900,000 would be for navigation and \$3,400,000 for hydropower. It would have total annual costs of \$9,500,000 and a benefit-to-cost ratio of 2.0 to 1.

Statement for United States Senate
Environment & Public Works
Subcommittee on Water Resources
May 17, 1983

I am Offa S. Nichols, Jr., President of the Warrior-Tombigbee Development Association. Our members represent a cross-section of agricultural and industrial activities in the Warrior-Tombigbee Basin in Alabama, with additional members from eight other states. While we have a strong membership base from firms who make direct use of the river system as shippers, manufacturers, repairers and operators of marine equipment, we are also very proud that some 40% of our membership are firms who make no direct use of the waterway. They are firms which have a strong appreciation for, and commitment to, the economic development of our area, our nation, and for the significance of the Warrior-Tombigbee Waterway to our ability to be competitive in world markets.

The Association was formed in 1951 to bring about the redevelopment of the Warrior-Tombigbee Waterway System, and it has continued to work toward its continued growth and proper maintenance. It has become the focal point for those who wish to work together toward these ends.

The Warrior-Tombigbee Waterway now has a modern system of locks and dams with the exception of one lock, William Bacon Oliver. While prior to the late 1970's the waterway had operated in a generally efficient and reliable manner, we now have a new set of circumstances. These new circumstances reflect not only the impressive growth up to now and the ravages of time and the elements, but even more the immediate and increasing impact of the world-wide energy and food picture. Some estimates indicate that 10% of our nation's coal reserves are located in the Warrior Basin. Almost 80% of the coal traffic handled by the Port of Mobile arrives there by barge from the Warrior

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Basin, and over 4 million tons of coal move via this waterway to the electric generating plants in our area. Farmers from twenty-one (21) Alabama and Mississippi counties ship their grain to Mobile for export via the waterway. We have a number of large and experienced mining operations in the area, as well as others capable of substantial growth. The development of these coal reserves, the skills and experience of our people, and the growing world-wide demand have created new demands on the waterway. Several thousand farmers are dependent on the waterway for efficient transportation of their products. In Alabama, as in the nation, their largest cash crop is soy beans.

There are many other commodities moving on the waterway such as ores, crude and fuel oils, steel products, chemicals, aggregates and wood products. Related industries, though now impacted by the world-wide recession, plan to grow and modernize. These ever-increasing demands require that the Warrior-Tombigbee operate at peak efficiency on a full-time basis. Our operational efficiency is seriously impaired by the bottleneck caused by this one remaining substandard lock -- Oliver on the Warrior River. This pre-World War II lock is smaller than the other five, all of which are the new standard size of 110 x 600 feet. This necessitates tows being broken apart and utilizing double lockages to get through.

Shipments of ore, steel and related products are expected to more than triple by 1985 because of a major, new manufacturing facility under construction by U.S. Steel. The efficiency and reliability of the Warrior-Tombigbee Waterway are significant factors in the location of this new plant. Further, the continued efficiency and modernization of the waterway will be important in U.S. Steel's pending decisions on the reactivation of the now idle facilities as the new facility begins to operate.* Thousands of jobs hang in the balance, critical to an area with unemployment above 16%.

*NOTE: In December 1983, U.S. Steel announced the reactivation of the Fairfield Steel Works. the Waterway, no doubt, had a profound impact on that decision.

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Looking beyond the current depressed state of the economy, availability of the waterway is essential to the future expansion plans of other industry. The public utilities, co-ops, as well as investor owned, rely on the waterway for over 20% of their fuel movements, and they will soon be moving thousands of tons of limestone to satisfy EPA required sulfur removal.

Meanwhile, millions of dollars have been invested by industry, farmers and other governmental agencies, providing thousands of jobs. The Alabama State Docks' million dollar expansion program is on schedule, and in 1983 offers the most advanced coal handling technology available in this country. Similar expansion is underway for grain handling bulk materials. The waterway is essential to successful competition with foreign sources, particularly in the coal and grain markets.

It is essential that William Bacon Oliver Lock be replaced with a new, modern, full-sized lock at the earliest date. The cost of this new lock should not be viewed as an expense, rather it will be a solid investment. Let me tell you why.

During the studies which resulted in the building of the other five locks on the Warrior-Tombigbee Waterway between 1950 and 1975, it was projected that by 1980 the waterway would carry some 8 million tons. These levels were reached in 1966, and by 1980 some 17 million tons moved — twice the projection. Ongoing studies project tonnages in excess of 25 million tons during the 1980's.

During the past few years, the State of Alabama and the private sector have invested several billion dollars in facilities which are very heavily dependent on an efficient, reliable and full-time waterway. Just to site a few examples:

- \$250M by the Alabama State Docks,
- more than \$1 billion by major coal producers,
- over \$700M by a major steel manufacturer,
- over \$35M by two marine operators for new and modern equipment,

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- we have a new firm in the grain handling business. It has just added a second river elevator, totally dependent on water transportation. The dollars are small compared to the above figures - but very important to the hundreds of farm families who ship their beans and wheat by barge to the Port of Mobile for the export market.

Our members speak to the importance of the waterway and Oliver Lock far better than I. Let me pick out some things they have said:

- It is the State's Inland Waterway System that continually gives the Port its competitive edge.
- As a basic manufacturing industry, we generate secondary economic activities (he then lists over a dozen diverse sectors of the economy).
- We operate the largest merchant foundry coke plant in the U.S. The efficiency and reliability of the river system, together with Mobile Harbor, are important to our current trade and to the full, future development of our potential.
- Our export business has expanded steadily over the past 10 years and we have made good use of the WT.
- Even though we operate primarily in other areas of the country, we still recognize the importance of the WT to the overall Inland Waterway System.
- If the WT should become an unreliable route, we would have to turn to higher cost suppliers. This would have a significant, adverse impact on our 160,000 customers -- including the Federal Government -- and on the economy of our service area. (This is from a public utility. There are similar statements from three others representing some 2 million customers)
- The success of our entire operation depends largely on swift and on-schedule towing services.

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- We strongly support the testimony of the WTDA. We are part of the collective effort to improve the efficiency on the WT Waterway. (This from a Fortune 500 Company with annual sales of over \$700 million whose direct use of the waterway was likely near zero.)
- The United States over the past few years has lagged in its collective efforts to regain the prominence it once had as the leader in World Trade. Certainly, the Warrior-Tombigbee Project has to be ear-marked for a successful completion when weighed by the merits of the economic impetus for so many people and blessed by your continued support and fine leadership.
- Certainly, the Federal investment in the Warrior-Tombigbee System has paid dividends many times over with the improved economic development in the area which the Warrior-Tombigbee River System serves.

It is interesting to take particular notice of the modernization program just being completed by the Alabama State Docks -- some \$250 million over the past 5-6 years. That investment alone is more than it cost to build all the locks and dams on the Warrior-Tombigbee. And that same statement will still apply when the new Oliver Lock replaces the old one.

William Bacon Oliver Lock has been identified in the National Waterways Study as one of the five national locks which are controlling constraints to traffic. These are locks for which replacement is needed now. The National Coal Association has identified Oliver Lock as one of six for which replacements are required to meet the needs for waterborne movement of coal. It is included as one of five locks in the Critical Waterway Improvement Act of 1983 as introduced in the House of Representatives.

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Wherever one sees or hears a listing of critical choke points and bottlenecks on our national Waterway System, one finds Oliver Lock included.

Mr. Chairman, we believe that our nation's inland waterways system has demonstrated clearly its importance to the vitality of commerce and industry and to national security. The inland waterways can play an even broader role in meeting long-haul freight transportation demands if we act now to replace a few inadequate locks so the inherent efficiency of the total system can be utilized effectively and to the fullest. We urge you to facilitate the replacement of Oliver Lock by acting now to enable early construction of this critical navigation improvement.

We appreciate the opportunity to present this statement.

Testimony of Louis Carlson
Before
The Senate Committee
on
Environment and Public Works
January 24, 1984

Mr. Chairman and Members of the Committee:

I want to thank you for the opportunity to appear before you today to discuss the imposition of users fees on inland waterways and on ports and harbors.

My name is Louis Carlson. I am a wheat grower from Oregon and I am co-chairman of the National Association of Wheat Growers (NAWG) Transportation Committee.

Wheat exports are a vital market to the producers of grain. Wheat exports are a vital source of trade balance with other countries of the world and wheat exports are a vital tool in today's diplomatic negotiations with other countries of the world. In other words, every man, woman and child in this country has a stake in the economic well being of America's agriculture.

Mr. Chairman, the production from two out of every three acres that I plant to wheat are sold overseas. Wheat growers are proud of the fact that we have developed these markets, and we intend to keep these vital markets by providing the best quality product in the world, at competitive prices. The key words are, quality and competitive pricing. Any thing that disrupts these shipments, be it inadequate facilities or transportation modes, or unfair disruption of commodity shipments, will jeopardize a delicate marketing program with foreign customers. We recognize the need for an efficient and comprehensive inland waterways system. Constant upgrading of waterways, ports and harbors, are essential to efficient marketing. We also understand that such a system has to be bought and paid for.

In 1981, nearly 2 billion bushels of grain moved to market by our waterways system. While our grain was being barged down the river at a direct cost to the growers pocket book, fertilizer barges were passing those grain barges bringing fertilizer back to those farms for the next years crops, again at the direct cost to the grain producer. In other words, we producers pay the user fee on shipments

going both directions. No other industry that I know of can make that statement. Some will dispute who does actually pay the freight bill, but I can assure you that upon demand I have checks on file to prove my point.

So, as you can see, any additional fee imposed upon users of the inland waterway system will affect farmers. On this point, let me defer to a few experts who agree with my point of view. Mr. Kober, vice president of Continental Grain, has stated publically that "it is the grain farmer who will probably pay all or most of any increase cost." Professor Dennis Conley of the University of Illinois agrees that "the farmer does eventually bear the burden of fuel cost increases." His colleague at the same university, Dr. Lowell says "most of the tax will be eventually reflected in lower prices to producers." Dr. Jerry Fruin at the University of Minnesota agreed that the farmer would bear the cost of increased fees.

Gentlemen, if you believe what I am saying, you will recognize that the tax that will be paid on grain shipments and agriculturally related shipments such as fertilizer and fuels will indeed be paid from the pockets of the grain shipper and receiver of products to be used in the raising of those grain products. I do not believe that any knowledgeable person would deny that the profit margin in todays agriculture is slim, slim, slim. This is why growers in America take special note when a new cost is imposed upon them without the opportunity to pass on or spread out the effect of that additional cost.

Now, having taken my stance on user fees, let me hasten to reiterate the importance of being able to transport our commodities to market in a efficient and dependable manner. Our grower organization commend you for your hard work and dedication to improving water transportation and to the authorization of critically needed projects. We too believe that government spending must come down and that government should not be the total provider of all good things.

Turning now to Senate Bill 1739, there are many provisions of this bill that meet with our approval. We commend you for seeking legislation whereby all of America shares in a portion of improvements. We commend you for the provision

of advisory personnel to the Secretary of the Army on inland waterway projects, and we commend you for recognizing the need for new construction and the repair of old locks and dams in order to keep our system the best in the world. However, there are some parts of the bill that we have grave concerns with.

Title V of the legislation permits the Secretary of the Army "to impose, collect and oblige use charges on the commercial users of the inland waterways and harbors of the United States." Our concern is that the legislation does not spell out the type of fees nor the level of the fee.

Proposals from the administration for cost recovery are many and varied. They have called for a system-wide ton-mile tax; they have called for a segment specific ton mile fee; they called for a lockage or congestion fee; and an increase in the current gate way fuel tax schedule. The question is, which of these choices will be imposed upon us. Some will be devastating to agriculture, some will not. Let me review these alternatives to see which ones we can support for our fair share of cost recovery.

A ton mile, as well as a segment specific ton mile fee, would be devastating to agriculture, and here is why. Grain moves longer distances than other commodities on the inland system. For example, from Cincinnati, Ohio, the outbound grain average length of haul is 1,345 miles. The average inbound haul for products received by agriculture will naturally be the same instance, a round 1,350 miles. On the other hand, outbound coal travels 67 miles and outbound petroleum travels 68 miles. So it is clear that agricultural products going to market and products destined for agricultural input will be the ones that will pay more than their fair share in support for the system. In addition, CBO estimates that a 75 percent O and M cost recovery and a 50 percent capital cost recovery will increase shipping costs by 24 percent. Since agricultural products are a buyers market, those costs will be increased to the shipper.

Now lets talk about a congestion fee. According to a study by Dr. Jerry Fruin from the University of Minnesota, a congestion fee would be the most

damaging to agriculture. His study suggests that a 100 percent diversion to rail is possible, thus bypassing St. Louis and resulting in a loss of jobs in the area. Without the competition of the barge, rail rates would rise to the dismay of the shipper. A similar but maybe not as dramatic occurrence would take place on the Columbia River. The multi million dollar lock and dam system on the Columbia River has provided slack water from ocean to inland Lewiston, Idaho.

Any disproportionate user fee would cause this gateway to the Pacific rim countries to give way to a monopolistic rail mode and higher freight costs as well.

One other option is to increase the existing waterway fuel tax. It is estimated by the National Waterway study of the Department of Transportation that in 1990 a 38.1 cent increase to the fuel tax at the 1990 level would raise \$245 million per year. What this means then is that the diesel tax in 1990 would amount to 48.1 cents per gallon. And the total cost to the inland water system would be approximately \$891.00 million per year. These escalating figures simply tell us that the cost of operating, maintaining, and construction of the inland water system will rise significantly during the next decade. As the user fee goes up, traffic will be diverted to other modes of transportation and the smaller volume of traffic per unit will have to increase the fixed cost of that system.

All of this brings us back to which is the most desirable type of tax to impose. Because of the diversity of our use and regions, probably no one tax will be acceptable. A combination may be the most desirable answer. During the past four years numerous bills have been introduced and all variations have been suggested. The wisest of our elected officials have wrestled with this thorny problem during this time. Senate Bill 1739 appears to delegate to the Secretary of the Army the authority to set the level of tax and to provide the method of taxation. The National Association of Wheat Growers believes this power should remain with Congress. These critical decisions should remain with the Members of Congress who are representative of the people of our great land.

We understand that the Secretary will be advised by an advisory board, however the Secretary is not legally bound to the decisions of the board. It is for these reasons that we wish that Congress retain control of the type of user fee and that Congress set the level of fee.

One other concern must be raised in Title V of Senate 1739. We are concerned that the base level of federal funding in Senate 1739 is not indexed to inflation. Thus, as time goes by and inflation takes its toll, users will be forced to pay an ever increasing share of the cost of the inland system. It is our position that the current diesel tax revenue be separated from the \$646 million.

And now I would like to turn to Title X of the bill. The NAWG is concerned that costs incurred in providing greater depths than 45 feet will be forced upon shipments of grain. Grain is generally shipped in 25,000 to 35,000 ton vessels and with 28 to 35 foot draft. Since agriculture will not benefit from deeper harbors, NAWG is opposed to the requirement that draft vessels calling at these ports pay a proportionate share of those additional costs. Regardless of the method of recovery, uniform, segmented or combination, it is clear that our major concern is maintaining the competitive nature of the transportation system serving the wheat industry.

In summary, wheat growers believe that any new user fee proposal must contain the following provisions:

1. Fee increases and types of fees imposed must be subject to Congressional approval.
2. Producers and barge operators should know far in advance on any user fee change.
3. Agriculture should have a strong voice in any advisory board which may be established.
4. Agriculture should not be forced to incur any cost associated with depth of harbor or channel which benefit a specific commodity.
5. The \$64 million federal funding cap should be indexed to inflation.
6. Any user fee imposed should not cause a major shift of cargo from one mode of transportation to another nor from one area to another.



National Council of Farmer Cooperatives

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Statement of
The National Council of Farmer Cooperatives
Before the
Committee on Environment and Public Works
U.S. Senate

HEARING ON S. 1739:
THE WATER RESOURCES DEVELOPMENT ACT OF 1983

Presented By
James F. Eberwine
Chairman, NCFC Special Rail/Barge Committee

January 24, 1984

"AMERICA'S FARMER OWNED BUSINESSES"

Statement of
The National Council of Farmer Cooperatives
Presented by
James F. Eberwine
Chairman, NCFC Special Rail/Barge Committee

INTRODUCTION

Mr. Chairman and Members of the Committee, my name is James F. Eberwine, and I am Director of Traffic, Supplies Division, GROWMARK, Inc., a regional farmer cooperative headquartered in Bloomington, Illinois. I am pleased to appear before this Committee today in my capacity as Chairman of the National Council of Farmer Cooperatives' Special Rail/Barge Committee. This Special Committee includes representatives of farmer cooperatives across the nation who are vitally dependent upon rail, inland waterways and ports for the movement of agricultural inputs and commodities.

The National Council of Farmer Cooperatives is a nationwide association of cooperative businesses which are owned and controlled by farmers. Its membership includes 109 marketing and farm supply cooperatives, the 37 banks of the cooperative Farm Credit System, and 31 state councils of farmer cooperatives. Our members handle practically every type of agricultural commodity produced in the United States, market these commodities here and abroad, and furnish production supplies and credit to their farmer members and patrons. Two-thirds of United States farmers are affiliated with one or more cooperatives. The National Council represents about 90 percent of the more than 6,400 farmer cooperatives in the nation, with a combined membership of nearly 2 million farmers.

Cooperatives are in the business of supplying inputs, and transporting and marketing commodities for their farmer-owners. Not only does this system carry with it a unique accountability, but it also directly ties the costs of doing business across the food system to the farmer. Cooperatives by definition are non-profit institutions which rebate savings to farmer-owners in the form of patronage refunds. Increased cost of doing business translates into lower savings.

Farm cooperatives transport an increasing volume of farm inputs and production. Cooperatives move over 70% of all U.S. milk and milk products, almost 50% of total U.S. grain and soybean production and 25% of the nation's fruits and vegetables. They transport 36% of U.S. fertilizer and lime, and supply 45% of on-farm fuel requirements.

This statement focuses on two components of S. 1739, The Water Resources Development Act of 1983. Title V creates a new funding mechanism for commercial inland navigation and authorizes construction of 13 new inland projects. Title X authorizes harbor maintenance and a dredging program for 22 ports. Briefly, the testimony covers the following major points:

- The critical importance of inland waterways and ports to U.S. agriculture.
- The potential impact of new user fees upon agricultural income and export competitiveness.

- National Council support for the general thrust and intent of S. 1739:
 - Authorization of critical improvement projects.
 - A firm commitment to federal funding at an unprecedented level.
- National Council recommendations to improve the effectiveness and equity of S. 1739:
 - Treat the user-funded Inland Waterways Trust Fund separately from general federal waterways expenditures.
 - Index annual authorized federal outlay to inflation.
 - Amortize cost of each project over the life of the facility.
 - Strengthen responsibilities of user board and require Congressional approval of any new user fees.
 - Require only direct beneficiaries to pay any user contribution for dredging of deep water ports.

AGRICULTURE HEAVILY DEPENDENT
ON WATER TRANSPORTATION

This nation's agricultural community is heavily dependent upon the inland waterway and port system for the movement of key agricultural inputs to the farm, including fertilizer and fuel, and for shipment of bulk agricultural commodities to domestic and export markets. In 1983, 126.2 million metric tons of grain, oilseeds and oilseed products were exported. In other words, one out of every three bushels of these crops produced in the U.S. was shipped through ports for export. The lower Mississippi River is the site of 11 export grain elevators which together move about half of all grain exports. About 40% of U.S. grain and oilseeds move by barge between the farm and their final destination.

Mr. Chairman, agricultural exports have served as the shining beacon in what has been an otherwise dismal balance of trade picture. Agricultural exports account for almost 20% of total U.S. exports. They have helped to buffer huge oil price shocks over the past decade, and to offset a consistent trade deficit from other sectors of the economy. This nation's international monetary account would be in shambles were it not for the efficiency and productivity of U.S. agriculture. A cost-effective inland waterway and coastal port complex is

essential to translate U.S. on-farm efficiency into international competitiveness. S. 1739 will play a major role in shaping the future efficiency and cost-effectiveness of the American farmer and our national transportation system for years to come.

USER FEE IMPACTS ON AGRICULTURE

The National Council endorses the general concept that users of a transportation system should pay an equitable share of its cost of operation, maintenance and construction, based upon a fair assessment of the proportional benefits which are received from use of that system. Indeed, commercial inland waterway users presently pay a user fee of 8 cents per gallon of diesel fuel. This is scheduled to increase to 10 cents per gallon on October 1, 1985. However, the Committee is very aware of the multi-dimensional benefits which accrue to various national needs from our inland waterway and port system, including national defense, flood control, recreation, water quality, water supply and regional economic development. Both commercial and non-commercial benefits are difficult, if not impossible, to quantify in a precise manner in any cost allocation process. The National Council believes that the existing user fee structure fairly represents the agricultural community's share of the benefits and therefore costs.

It is important in any consideration of cost recovery to understand how such fees translate into impacts upon the agricultural community. As a general rule of thumb, every 1¢/gallon tax on diesel fuel used by barges translates into 0.3 cents per bushel of grain moved. This means that the present fee increases grain costs about 2½ cents per bushel.

Rail is the only major alternative to inland waterway transportation of grains and agricultural inputs. Based on past experience, the National Council believes that any increase in water user fees will stimulate a similar increase in rail rates. The long-haul trucking rate structure would also receive a wind-fall. Thus, this Committee's decision on cost recovery will have an impact on the cost of moving almost every ton of fuel and fertilizer, and every bushel of grain.

Navigation cost-recovery represents a serious farm income issue to our members. Farmers are "price takers," not "price makers," and increased production and marketing costs cannot be passed on automatically to the consumer.

Some have suggested that grain elevators or processors could absorb additional costs from user fees. However, they would have little incentive not to pass fees back to the farmer in the form of less price per bushel, unless an exceptionally severe short-supply situation occurred. Such a tight supply-demand outlook is highly improbable, barring a broad natural catastrophe. Regardless, if costs were absorbed by individual cooperatives, then farmers would receive a smaller annual patronage refund. Either way, the farmer pays.

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Would increased user fees be absorbed by U.S. foreign customers? No, because U.S. agricultural exports compete with foreign-produced farm products on a cost-at-destination basis. If user fees were passed along to U.S. overseas customers, the U.S. would lose markets, since the success of a grain trade can hinge on 1/4¢ margin per bushel. Put simply, new user fees would price American farmers out of the world market.

Since U.S. production dictates world grain and oilseed prices, in the long run user fees only create a high threshold price which further encourages foreign agricultural exporters to increase their production base and capture additional market shares from U.S. agriculture. The ripple effect of the macro-economic consequences of reduced exports is bad news for farmers' income and for the national economy.

Thus, over the short- and long-term the farmer and his cooperative are in a no-win situation. S. 1739, as presently drafted, could require almost a 500% increase in user fees by 1990, according to Corps of Engineers' estimates. The 38¢-per-gallon increase which this represents translates into a devastating impact on farmers. The cost of moving farm inputs (fuel and fertilizer) by barge would significantly increase. On average, the cost of marketing grain would jump an average 11¢ per bushel based solely upon this tax. We have pointed out that increases in the cost of waterway transportation would likely be accompanied by a similar escalation in rail and truck rates. To put this

into perspective, if increases in grain are fully absorbed by the farmer, net farm income could drop at least \$1.4 billion, based on USDA's 1983 utilization data. Since USDA estimates 1983 net farm income at \$22-24 billion, this could mean a minimum 6% drop in net farm returns (Attachment 1).

The National Council strongly believes that the benefits accrued directly to agriculture from the inland waterway system fall far short of justifying this devastating impact, which does not even include user fees from port development. We are concerned that S. 1739 could put an unprecedented financial burden on the backs of American agriculture which exceeds fair cost-sharing.

TITLE V: INLAND WATERWAY COMMERCIAL COST SHARING

The National Council commends the Committee for recognizing the need for strong federal financial commitment to the nation's inland navigation system. The nation's farm cooperatives were encouraged with the decision to raise the maximum authorized federal expenditure from \$500 million to \$646 million. This 14-year annual authorization will facilitate needed construction projects important to American agriculture. Council members have identified three new principal construction projects which they believe are essential for smooth and efficient grain movement: (1) a second chamber at Locks & Dam 26, (2) a new lock at the present Bonneville Lock on the Columbia River, and (3) The Gallipolis locks and dam replacement on the Ohio River. We are pleased to strongly support the provisions of S. 1739 which authorize construction of the important projects.

The National Council realizes that these project authorizations will mean little if inadequate funding exists for construction. Farm cooperatives support greater discipline for project approval to avoid cost-inefficient, "pork barrel" construction.

In the spirit of a desire to fashion workable legislation and get these projects started, a special NCFC Waterway Transportation Group met in early December and developed specific recommendations for improvement of S. 1739. Our suggested modifications would provide sufficient revenues for operation and maintenance costs as well as construction expenses incurred from Title V's project authorizations. If S. 1739 were modified to include the following changes, the National Council would lend its full support to Title V.

- *Maintain a \$646 million ceiling on federal expenditures without arbitrarily renaming the user-capitalized Inland Waterways Trust Fund a federal outlay.*

We urge that any unspent Trust Fund revenues collected to date and all future revenues be formally designated as a commercial user payment dedicated for commercial operation, maintenance and improvements.

- *Maintain a constant federal commitment to our inland commercial navigation system by annually adjusting the \$646 million cap to inflation.*

Failure to ensure that federal contributions keep pace with our changing economy would place an unpredictable and unknown financial burden on users. Fees would escalate in

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periods of high economic instability when commercial users could least afford volatile fee swings.

- *Amortize project construction and improvement costs over the life of the facility (Attachments 2 & 3).*

We are deeply concerned that S. 1739 could be loosely interpreted by the Secretary of the Army to force increased user fees to begin recouping project costs even before construction started. Or, the Secretary could force commercial users to pay the non-federal portion within an unreasonably short period, for example, 3 to 5 years. This could cause unpredictable and substantial fee increases.

Due to the extreme price sensitivity of grain to changes in transportation costs and its highly elastic demand in world markets, risk-management is vital for our marketing and exporting cooperatives to remain profitable. The Secretary's broad discretionary authority to force premature and unexpected fees to help pay for projects would add unnecessary volatility to grain transportation.

The U.S. Government has repeatedly added avoidable volatility to our agricultural marketing chain. Four farm export embargoes in the past decade sent gyrations through the marketing chain as previously-sold (but not yet delivered) grain suddenly sent the delicate supply-demand balance drastically out of kilter. We strongly urge Congress not to legislate more transportation risk, since agriculture is historically a target of unexpected political sanctions.

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- H/ • *Strengthen the resources and responsibility of the Inland Waterways User Board.*

Our farm cooperative members enthusiastically endorse the concept that if "user pay, user say." While the User Board outlined in S. 1739 strives to ensure user responsibility and input, it lacks adequate authority. As a result, S. 1739 gives the Secretary of the Army a de facto "blank check" to set fee levels and types at his discretion. We are concerned that well-intentioned Corps zeal could damage agricultural marketing without mandatory Corps accountability before damage has been done.

We recognize the constitutional conflict with the Committee's initial User Board proposal. Since even legal experts have been unable, to our knowledge, to statutorily assign administrative authority to an advisory committee, we suggest that Congress act as ultimate arbitrator over cost recovery.

The National Council urges this Committee to require the User Board to submit an Annual Report each year to Congress with recommendations on future project and cost recovery needs.

To ensure the User Board has the ability to make decisions independently from the Corps, we recommend that the Committee provide it with funds and authority for a paid staff and at least three meetings per year.

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- *After receiving the User Board's Annual Report, Congress should be required to approve any increases in proposed user fees within six months.*

No changes in fee level or type should occur without specific Congressional approval. Some concern exists over whether this proposal constitutes a de facto legislative veto. We urge the Committee to investigate the legal standing of our proposal. Clearly, such Congressional oversight deserves serious consideration by this Committee. Our proposal would provide Corps accountability to Congress, and permit the User Board to play a significant role in cost recovery.

TITLE X: PORT & HARBOR COST RECOVERY

Agricultural shippers are acutely aware that they face double cost recovery, since S. 1739 would force them to pay user fees for inland and port navigation. We urge this Committee to recognize the cumulative impact of cost recovery on shippers, especially since the Committee will hear separate testimony from waterway and port interests.

The National Council commends the Committee for its diligent work to avoid penalizing inland commercial navigation with cost recovery for non-navigation projects. By segregating commercial navigation from other inland waterway uses, Title V embodies the eminently fair concept that users not pay for what they do not use.

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It is unfortunate that Title X does not squarely apply the same logic. Specifically, Title X requires that 20% of the non-federal share of deep draft planning, design and construction costs be paid by non-beneficiaries. The National Council vigorously opposes this form of subsidization by agricultural shippers and other non-beneficiaries.

Our farmer cooperative members believe that agricultural shippers should not be forced to subsidize deep-draft dredging they do not need. Grain is generally shipped in 25,000 - 35,000 dwt vessels with a 28' - 35' draft. In addition, our overseas customers are not equipped to accommodate large single unit export volumes. Overseas ports which take delivery of most U.S. farm exports do not have deep draft channels leading to grain off-loading facilities.

Not only are the depths at most foreign ports receiving U.S. grain inadequate to handle large Panamax vessels, but their terminal capacity is not adequate to handle huge bulk grain shipments. On- and off-loading facilities, storage capacity and transportation to processing and distribution centers are all geared to handle a steady flow of smaller grain volumes. Even if massive amounts of grain did reach foreign processing plants, foreign processors would not have the capacity to expeditiously handle a 50,000 dwt vessel shipment. Additional storage costs would have to be paid, providing storage were available. For example, a typical shipment from a 50,000 dwt vessel carrying carrying soybeans would generate a 50- to 60-day supply for the

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typical foreign processor. Since U.S. farmers do not need vast new dredging projects, we believe that we should not have to bear the costs of non-grain-related dredging or other commodity-specific improvements. If a bona fide "user fee" is to be charged, then equity demands that the burden of financing be placed on the true users.

CONCLUSION

The National Council of Farmer Cooperatives stands ready to work with you to refine S. 1739. User fees have a role in sound transportation policy. However, agriculture has already contributed millions of dollars to the Inland Waterways Trust Fund and will continue to do so under the existing user fee schedule. We encourage this Committee to adopt our proposed amendments and avoid legislating a new financing scheme which would have a sizable disruptive effect on American agriculture and the waterways industry.

We are pleased to have the opportunity to offer our views to the Committee on an issue of vital concern to the National Council.

January 24, 1984

ATTACHMENT 1

IMPACT ON U.S. GRAIN FARMERS
OF
S. 1739, TITLE V

COMMODITY	TOTAL USE MY 82/83	IMPACT of 38¢/GALLON* FUEL TAX INCREASE (11.4¢/bu)
WHEAT	2,437 mil bu	\$278 million
CORN	7,544 " "	\$860 "
SORGHUM, BARLEY, OATS	460 " "	\$ 52.4 "
SOYBEANS	2,109 " "	\$240.4 "

*The Army Corps of Engineers estimates that S. 1739 would result in a total user fee of 48¢/gallon by 1990. Since the existing fee will already account for 10¢/gallon of this total, the chart illustrates the additional impact of the remaining 38¢/gallon on farm income for major U.S. grains.

EXPLANATION: In these calculations it is assumed that rail and truck rates will increase in a manner commensurate with barge rates increases due to cost recovery.

The scenario is based on a conservative estimate by the Minnesota Department of Transportation that a 1¢ change in barge diesel fuel taxes translates into a 0.3¢ cost change per bushel.

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ATTACHMENT 2

ANTICIPATED USER FEES GENERATED/LEVEL OF FINANCING AMORTIZATION (In Millions of Dollars)

	Fiscal Year 85	Fiscal Year 86	Fiscal Year 87	Fiscal Year 88	Fiscal Year 89	Fiscal Year 90	Fiscal Year 91	Fiscal Year 92	Fiscal Year 93	Fiscal Year 94
Anticipated Receipts from Present User Fees	47	52	65	72	80	82	85	87	90	92
10% - 25 Yr. Amortization	431	477	596	660	733	752	780	798	825	844
7 1/2% Amortization	546	604	755	837	930	953	988	1,011	1,046	1,069

ATTACHMENT 3

YEARLY PAYMENTS PER \$1,000,000 BORROWED

<u>% Of Interest</u>	<u>30 Yrs. Loan</u>	<u>25 Yrs. Loan</u>
12	123,000	126,000
11	114,000	117,000
10	105,000	109,000
9	96,000	100,000
8	88,000	92,000
7½	81,000	86,000



**NATIONAL
GRAIN & FEED
ASSOCIATION**

STATEMENT OF
THE NATIONAL GRAIN AND FEED ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
U.S. SENATE
BY
J. STEPHEN LUCAS
JANUARY 24, 1984

Mr. Chairman and Members of the Subcommittee:

My name is J. Stephen Lucas. I am Director of Logistics and Operations for the Louis Dreyfus Corporation of Stamford, Connecticut. I am chairman of the Barge Users Committee of the National Grain and Feed Association, which I represent in my appearance today.

The National Grain and Feed Association is a voluntary association of grain and feed firms ranging in size from the smallest country elevator to the largest grain and feed complex, and includes merchandisers, processors, warehousemen and exporters of a wide spectrum of grains and feeds. Its membership includes 1,300 direct memberships by individual firms and 45 state or regional grain and feed associations affiliated with the National Association that include membership upwards of 10,000 grain and feed firms nationwide.

The inland waterway system is a highly important segment within the U.S. transportation infrastructure. For agricultural and other bulk commodities, barge movements provide a highly energy-efficient and economical transportation

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network. This economic efficiency has led to heavy utilization of the inland waterway system by agricultural product shippers. In a 1982 survey, the National Grain and Feed Association found that more than 20 percent of all grain movements were by barge. When considering only those grain shipments destined for export markets, barge movements account for 50 percent of the total volume with a value in excess of \$13 billion annually.

The National Grain and Feed Association supports the expenditure of public funds to the extent necessary to maintain a strong, viable waterway transportation system. In the past, the federal government has chosen to expend general funds to upgrade and maintain the inland waterway system. This investment by government is justifiable because there are many well-documented public benefits accruing from a viable waterway transportation system. The maintenance and operation of the waterways also has enhanced national productivity as businesses have been created that provide for additional employment. In fact, more than \$200 billion has been expended since World War II by private industry for agricultural or industrial facilities in counties bordering navigable waterways.

While continuing our support of the expenditure of public funds for the inland waterways system, we recognize that it may be necessary to rely on user charges as an additional source of funds for maintenance and operation of the waterway system. It is our strong belief and stated policy that any user charges should be assessed only when they are applied on a non-discriminatory basis to the mode benefiting from public funding. In moving toward additional private funding sources for a particular mode, the decision as to how much funding from the private sector is equitable should not be made without very serious consideration of the extent of public support for other competing transportation modes.

As this committee is keenly aware, U.S. agricultural export markets have been severely depressed for the past three years. Under these adverse economic

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conditions, our industry has great concern over any policy change that could significantly add to the marketing cost of grain. Higher user fees for the inland waterways added to the fees currently being assessed under P.L. 95-502 would further exacerbate the economic problems that already exist for agricultural producers and the grain marketing industry. As grain shippers and barge lines are operating in a highly competitive free-market environment, it is unthinkable that shippers or carriers could afford to absorb any significant proportion of increased user fee costs. Likewise, in today's extremely competitive export grain market, it is even more unlikely that such increased costs can be passed on to the foreign buyer of agricultural commodities. Thus, the direct, primary effect of such increased waterway user charges will be a decrease in the prices paid for grain at areas tributary to the inland waterways system and a concomitant decrease in gross farm income in those same areas.

Regretably, those farmers whose production is tributary to the inland waterways system are not the only people to suffer the effects of increased user charges. Barge transportation has been shown to be the pricing leader among transportation modes. As such, any general increase in barge freight rates to recapture increased user fees would also be reflected in increased rates by other modes of transportation. These increases in other transportation rates, notably rail rates, would have the effect of reducing the price paid for grain in areas which have only land transportation available. Just as with areas near the waterways, such transportation increases would be directly reflected in lower gross farm income in states as far removed from the river system as Montana and Colorado.

Thus, the National Grain and Feed Association has substantial reservations about supporting such legislation as S. 1739, which we believe would have such substantial adverse economic impact on the already depressed level of gross farm income in the United States.

With regard to the specific legislation under consideration, S. 1739, the National Grain and Feed Association would like to offer the following recommendations and comments:

1. Title V would place an absolute ceiling of \$646 million on the amount of federal funding available for the construction, rehabilitation, operation and maintenance of the commercial inland navigation system for the 16 years ending in fiscal year 1999. While inflation has slackened considerably in the past year, we believe that it is reasonable to project low to moderate rates of inflation in the next 16 years. For this reason, we find it difficult to support an absolute freeze of public expenditures at 1983 levels from now until the beginning of the twenty-first century. In the interest of maintaining some degree of even-handedness and equity between transportation modes, it would seem more reasonable to establish a spending limit that is indexed to general cost increases or maintain federal expenditures at a certain minimum percentage of total waterway system expenditures. The proposed \$646 million cap is based upon actual expenditures for 1983, a year in which there were few projects actually under construction. To use such a "minimalist" base year and to include the revenues from the existing Inland Waterways Trust Fund in the funding cap appears to be asking too much from both the barge and agricultural interests involved. Therefore, we would urge that the proposed cap not include those revenues derived from the Inland Waterways Trust Fund.
2. Sections 505 and 507 of Title V authorize a total of 13 projects with costs totaling more than \$1.238 billion. While all of these projects have favorable cost-benefit ratios, we recognize that funding constraints will necessitate the assignment of priorities in this list of projects. Priority status should be assigned to those projects that

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would be of greatest commercial value. Of particular importance and urgency to the agricultural sector are the construction of a second chamber at Locks and Dam 26 on the Mississippi River, construction of a new lock to replace the existing Bonneville Lock and Dam Project on the Columbia River and the construction of new locks to replace the existing Gallopis Locks and Dam on the Ohio River.

3. Title V authorizes establishment of a 21-member Inland Waterway Users Board to be appointed by the Secretary of the Army and representing shippers and carriers of diverse bulk commodities being shipped by barge from various geographic locations. While applauding the establishment of such a vehicle for industry input, the National Grain and Feed Association would strongly urge that the proposed legislation include specific guidelines on the make-up of the Users Board. To quote Report No. 98-340 concerning this bill:

"Agricultural Interest should have a strong voice on the Board, with representation reflecting the revenue those commodities generate."

We would support such language in the final version of this legislation.

4. Title V also provides for sweeping authorities to be given to the Secretary of the Army. These authorities include rehabilitation of inland navigation projects (given in Section 504) and imposition and collection of charges from commercial users of the inland waterway system (given in Section 502). We feel Section 504 is a laudable attempt to clarify the Secretary's authority to rehabilitate existing projects. However, this same section repeals a prohibition against "tolls or operating charges" which has been in effect since 1884. The

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National Grain and Feed Association feels strongly that the language of the amending 1909 Act should remain in effect to avoid the imposition by administrative order of user charge in excess of those specified in Section 501 or those recommended by the Users Board pursuant to Section 503. Section 502 gives the Secretary of the Army authority to impose and collect user charges. While some control over the level of user charges might be accomplished through the advisory committee, the Secretary is not bound by the recommendations. Similarly, the Secretary is not bound to follow the Board's recommendations regarding the forms and methods of collection of such user charges. The National Grain and Feed Association strongly favors a statutorily defined user charge maximum as well as a statutory statement that any such user charges are to be uniformly imposed on all commercial waterways.

- We are also concerned about the lack of checks and balances provided by Title V to ensure that user charge monies are being spent on the most commercially worthwhile projects. The bill mandates that reports on activities of the User Board and the Secretary of the Army are to be submitted to Congress annually. To ensure the accountability of the Secretary and the User Board, the National Grain and Feed Association would recommend the inclusion of language in Title V that would authorize activities of the Secretary and the User Board for a limited period of time, three to five years, for example, so that Congress could periodically reexamine user charge activities and the expenditures of Section 501 funds. Congressional hearings would also provide a forum for industries not represented by the User Board to present their views on whether they are satisfied with the actions of the Secretary of the Army and the advice that he is receiving from the User Board.

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The National Grain and Feed Association urges you to seriously consider these changes to Title V as a better means of protecting the interest of waterway users and ensuring that monies being collected from waterway user charges are being spent on projects of greatest potential benefit to commercial users. No matter what the final outcome of the debate on how inland waterways costs should be distributed between public and private sectors, one point is very clear: It is in everyone's best interest--the federal government, barge shippers and receivers, carriers and the American consumer--to ensure that adequate funds are available to rehabilitate and revitalize an inland waterway navigation system which has suffered too long from neglect.

WATERWAY USER FEE TESTIMONY
of

Richard Kowalewski
on behalf of
THE FERTILIZER INSTITUTE

before the
Committee on Environment and
Public Works
U.S. Senate

Hearing Date: January 24, 1984



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Mr. Chairman, my name is Richard Kowalewski, and I am Director-Transportation for Farmland Industries Inc., Kansas City, Missouri. Prior to my employment with Farmland, I had the privilege of working as a member of the professional staff of the House Public Works and Transportation during which Senator Abdnor - then Congressman Abdnor - served on that committee. I appear here today on behalf of The Fertilizer Institute (TFI)*.

The fertilizer industry is a major user of the inland waterway system. According to the U.S. Department of Transportation's "205 Study," the industry transported approximately nine million tons of fertilizer raw materials and finished products through the nation's waterways in fiscal year 1981. In addition, a comprehensive survey, undertaken for TFI by the independent accounting firm of Ernst & Whinney, in 1981 (1980 fertilizer tonnage), indicated that 29 percent of all fertilizer transported moved by barge when analyzed on a ton-mile basis. Thus, we appreciate this opportunity to present our industry's views regarding cost recovery of the expenses associated with inland waterway navigational programs and, more specifically, Title V of S. 1739, the Water Resources Development Act of 1983.

Briefly, we are concerned with drastically increasing waterway user fees without knowing the economic and competitive consequences

*TFI is a voluntary, non-profit association, whose members represent approximately 95 percent of the domestic fertilizer production in the United States. TFI's membership includes producers, manufacturers, traders, retail dealers and distributors of fertilizer materials. Its members are major shippers, receivers, and exporters of fertilizer and fertilizer materials.

of such action on farm income, U.S. agriculture exports and the nation's economy. We submit that the federal government has the major financial responsibility to maintain the inland waterway navigational system for the benefit of all Americans. Congress should not act hastily in the short-run, due to budget pressures, to shift this financial responsibility to the backs of a few selected industries, namely Agriculture.

We commend the Committee on Environment and Public Works for its efforts to enact legislation which would develop and maintain the nation's waterway infrastructure. No major water resource development bill has become law since 1976. Meanwhile, \$43.3 billion of waterway construction has been authorized but awaits appropriation. These two facts provide evidence that federal budget considerations have eliminated any priority for improving the nation's commercial waterways. This situation is unfortunate, because these water transportation lanes add significantly to the nation's economy. According to the National Waterways Conference, commercial waterways:

- transport 300 billion ton-miles of commerce annually;
- transport 40.3 percent of total U.S. exports of grains and soybeans;
- provide 41 states with navigable waterways, and
- provide thousands of jobs -- \$200 million in capital investments for expanding industrial and agricultural facilities have been spent since World War II in counties bordering navigable waterways.

Because commercial waterway navigation is a major factor in the nation's economic development, it is clear that the federal government has a responsibility to develop and maintain the commercial waterway infrastructure of the U.S.

The Administration and Congress, because of the current budget deficit, are seeking ways to increase the non-federal share of the cost for commercial waterway development. The current debate is over user fees, with the general theme: "If users of the system want improvements, then they must be prepared to pay for them."

As enacted in Public Law 95-502, waterway users already pay a user fee in the form of a fuel tax imposed on the nation's waterway system. That tax, currently eight cents per gallon of fuel, returns to the Inland Waterway Trust fund of the U.S. Treasury about \$50 million annually. The tax will increase to 10 cents per gallon in 1985, at a projected return to the Inland Waterway Trust fund of \$75 million annually. This user fee was enacted in 1978 to help authorize a major improvement at Lock and Dam 26 on the Mississippi River.

We are concerned, however, that enactment of huge increases in waterway user fees, solely to relieve the federal government of its financial responsibility, is being contemplated with little attention being given to the effect of increased fees on the nation's economy.

The Corps of Engineers has estimated that S. 1739, specifically Title V, may increase user fees (based on fuel tax) from the current eight cents a gallon to 48 cents a gallon by 1990. This is an increase of 600 percent, with the largest increments effective in 1988 and 1989.

Who will pay for these increased user fees and what effect will they have on the nation's economy? There is limited information available to judge the impact of such extreme increases in user

fees on the commercial waterway system and the economy. However, it is certain that the fertilizer industry cannot afford to absorb any additional cost in the form of user fees.

In 1982, the fertilizer industry recorded net sales of \$7.9 billion. However, net income (before interest and taxes,) was an \$83-million loss. The industry's economic picture did not improve in 1983. During the first three calendar quarters in 1983, net sales were \$6.1 billion while net income was a negative \$34 million. Even though the fertilizer industry is counting for a financial recovery in the last half of the 1980's, any user fees associated with barge traffic will be another cost added to the fertilizer bill for the American farmer.

Considering the current status of the barge industry, which makes the fertilizer economic picture seem rosy, we doubt if it can absorb the cost of extreme increases in waterway user fees either. Thus, the only person left to pick up agriculture's tab regarding user fees is the American farmer.

We do not believe that our partner in agriculture -- the farmer -- can afford to pay the anticipated costs to develop and maintain commercial waterways. The farmer will receive a "double hit" in regards to waterway user fees. He must pay the user fees on fuel and fertilizer inbound, and on grain outbound.

To assist in determining the impact of additional user fees on American farmers, TFI analyzed freight rates on average movements of grain from St. Paul, Minnesota to New Orleans, Louisiana, and for fertilizer rates moving from New Orleans, to St. Paul for the 1983 barge season. Recognizing that several variables enter

into determining rates, our analysis indicated that an expected average rate down river currently for grain is \$12.69 per ton and \$3.30 up river between the two cities for dry fertilizer. Dry fertilizer is the back haul for grain. Thus, the lower rate for fertilizer is expected because approximately 60 percent of grain barges return up river empty. Liquid fertilizers, such as nitrogen fertilizer solution and anhydrous ammonia are not associated with "back hauls" and, therefore, have higher barge rates. Our analysis indicated that the expected rate for anhydrous ammonia is \$33.00 per ton and \$18.50 per ton for nitrogen solution. The net effect is higher user fees for barge transport of these fertilizer materials.

Further, barge company contracts with shippers provide that an increase in the fuel tax of one cent a gallon, results in an increase in barge rates of 0.6 percent. This figure could vary slightly depending upon the barge company's efficiency.

Using this information, Table A compares the difference between cost of fuel taxes for transporting fertilizer and grain between St. Paul and New Orleans at the 1984 fuel tax level of eight cents a gallon and the 1990 fuel tax level of 48 cents a gallon estimated by the Corps of Engineers, as a result Title V of S. 1739.

At eight cents a gallon fuel tax, grain shipped from St. Paul to New Orleans must absorb a fuel tax of 1.8 cents per bushel. In 1990, grain will have to absorb 10.5 cents per bushel. Further, the current fuel tax adds an additional cost of \$915 per barge to transport grain to the export market; in 1990 the cost will increase to \$5,235.

On up river fertilizer movements, the current fuel tax of eight cents a gallon add an additional cost of \$240 per barge. In 1990, at a fuel tax rate of 48 cents per gallon, the additional cost will be \$1,350 per barge.

From these examples, it is clear that the American farmer must pay a heavy price as user fees jump to anticipated levels in 1990 of 48 cents per gallon. Considering that in 1983, the U.S. exported 162 million metric tons of wheat, feedgrains, corn, and soybeans, and 40 percent of these exports moved through the nation's waterways, American farmers can expect to have passed on to them \$38 million in user fees in 1984. In 1990, based on our example, with all things equal, farmers will have to absorb \$226 million in user fees for grain alone.

The Fertilizer Institute questions whether U.S. grain will be able to compete in world grain markets if the commodity is forced to absorb higher shipping costs in the form of user fees.

U.S. agricultural exports are currently facing a most difficult time. Agricultural exports have dropped from a peak of \$43.8 billion in 1981 to \$33.7 billion in 1983, a decrease of 23 percent. We are concerned that additional shipping costs now, from increased user fees, will impede USDA efforts, such as "blended" credit and other proposed export enhancement programs, to stop this downward slide of U.S. exports. Ag exports benefit all Americans by reducing the U.S. balance of trade payments. Thus, one segment of the economy should not bear the brunt of the cost to develop and maintain the waterway system. Further, we are concerned that a foreign agriculture market lost, due to increased user fee costs, may be a market lost forever for U.S. agriculture exports.

User fees present complicated ramifications throughout the nation's economy. We believe Congress should not act hastily in approving drastically increased waterway user fees.

TFI recognized that the Committee on Environment and Public Works has worked hard to develop a user fee system that reduces federal expenditures while at the same time balancing the impact of increased fees on users of the waterway system. However, beyond the obvious possibility that user fees would have a negative impact on U.S. agriculture exports, we have several concerns with the Committee's proposals found in Title V of S. 1739. These concerns center around the need to limit drastic, sudden increases in user fees without defining the impact such fees will have on agriculture and the nation's economy as a whole.

First, Title V establishes a cap on federal financial obligations for the overall system at \$646 million per year, beginning in fiscal year 1986. The cap should be flexible in that it should be indexed, in some manner, to the rate of U.S. inflation. Currently, the inflation rate is three to four percent a year. However, the nation's economy could revert back to the higher percentage inflation rates of a few years ago. If this occurs, user fees could jump considerably resulting in even greater economic inequities in agriculture. Agriculture is cyclical in nature and user fees should not be added as a "fixed variable cost" in the equation for agricultural economics.

Second, we oppose inclusion of current fuel tax receipts (Inland Waterway Trust Fund) into the \$646 million cap. The cap is designed to limit federal expenses in the inland waterway

system. Monies in the Inland Waterway Trust Fund are paid solely by users and not by other taxpayers. Therefore, these taxes should not be considered as part of the federal government's general fund, but should be set aside as Congress intended -- as user contributions to maintain the nation's waterway infrastructure

Third, Title V establishes an Inland Waterway Users Board to control waterway expenditures and the level of user fees. However, the Board has no authority. The authority to establish user fees is clearly given to the Secretary of the Army in 502(a) of Title V. We are concerned that once projects are underway, commitments made and contracts signed, the Secretary of the Army will have to adjust user fees as necessary to meet financial contracts -- whether or not the User Board approves the action. We submit that establishment of a User Board does not guarantee that there will not be drastic increases from year-to-year in waterway user fees.

The question before Congress today is: what are the user fee levels that can be charged to industries utilizing the inland waterway system without severely affecting the nation's economy? We submit that there are no answers to that question, nor is it in the best interest of the nation to determine the answers by trial and error. Thus, Congress must not act hastily in the short-run, due to budget pressures, to increase waterway user fees until the economic and competitive consequences of the current fuel tax system has sufficient time to be recognized and evaluated.

Congress has the responsibility to develop and maintain the nation's commercial waterway system for the benefit of all Americans.

We hope that Congress will not abdicate that responsibility by forcing a few selected industries, namely agriculture, and other waterway users to bear the major portion of the costs associated with the inland waterway systems.

Thank you.

TABLE A

GRAIN RATES
St. Paul, MN to New Orleans, LA

YEAR	Average Base Rate	Fuel Tax 8¢/gal	Fuel Tax 48¢/gal	Freight Rate including Fuel Tax	Additional cost per barge attributed to user fees ³
1984	12.08/ton	\$.61/ton ¹ 1.8¢/bushel ²		\$12.69/ton 38¢/bushel ²	\$915
1990			\$ 3.49/ton ¹ 10.5¢/bushel ²	\$15.57/ton 48¢/bushel ²	\$5235

FERTILIZER RATES
New Orleans, LA to St. Paul, MN

1984	3.14/ton	\$ 16¢/ton ¹	3.30/ton	\$240
1990	3.14/ton		90¢ ton ¹ 4.04/ton	\$1350

- 1) based on 1/gallon increase in fuel tax results in an increase in freight cost of .6 of 1¢.
 2) 33.3 bushels per ton/60 lbs per bushel.
 3) 1500 tons per barge

STATEMENT
OF
WILLIAM H. DEMPSEY
PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

ON
INLAND WATERWAY POLICY AND PROJECTS
S. 1739, TITLE V

HEARING BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON WATER RESOURCES

JANUARY 24, 1984

Introduction

My name is William H. Dempsey and I am President of the Association of American Railroads. Our members operate 94 percent of the total railroad mileage in the United States, employ 92 percent of the nation's railroad workers, and handle 98 percent of the nation's railroad freight traffic.

I would like to submit for the record the position of the freight railroad industry regarding federal water projects.

Both equity and economic efficiency dictate the need for inland waterway user charges. The navigation related costs of new capital investment and the costs of operations and maintenance should be paid by the barge operators that benefit from waterway expenditures. Absent full cost recovery user charges, waterway development expenditures represent a subsidy to rail-competitive barge operations. Unless the current cost recovery system is significantly improved, railroads must continue to oppose waterway development projects.

America's freight railroads have a legitimate interest in public policy affecting inland navigation projects. Railroads compete with the nation's inland commercial barge lines for a substantial portion of freight traffic. To the extent inland navigation projects are financed by the general taxpayer, railroads -- which must themselves build, operate, maintain, and pay taxes on their rail rights-of-way -- can suffer significant competitive disadvantages. And rail shippers who must compete in the marketplace with barge shippers are also adversely impacted.

Unrecompensed public works projects not only provide unfair benefits for a select few; they also produce unsound public investments. Because

beneficiaries of waterway projects are not presently responsible for anything approaching the full costs, they have insufficient incentive to select "efficient" projects. Overinvestment in uneconomic projects can easily result when beneficiaries face no financial penalty for poor decisions -- as would be the case in private investment.

The provisions of S. 1739, Title V in particular, should aim not only to reduce the inequity but also the inefficiency that characterizes the present Army Corps of Engineers inland waterway funding program. How and why to achieve these aims are addressed in the sections that follow.

Alternatives For Higher Cost Recovery

Existing law, (P.L. 95-502, The Inland Waterway Revenue Act of 1978) requires an 8 cent tax on fuel used by towboats. In October of 1985, the charge is raised to 10 cents per gallon. Revenues from the fuel tax have averaged (FY 81-83) about \$6 million per year per 1 cent of tax, or about \$48 million projected for this current year. The Army Corps of Engineers estimates that annual expenditures on inland waterway commercial navigation have exceeded \$645 million the last four years and will reach close to \$600 million in FY 84. Cost recovery levels, therefore, have been running at less than a mere 5 percent annually for the last three years and are unlikely to reach 10 percent this year.

Instead of raising cost recovery levels, Title V of S. 1739 would actually ensure that annual user charges never exceed 10 percent, as long as spending remains at the cap. At \$646 million, that cap allows for more spending than in 1984 and for more than is currently projected in future years, with no increase in user charges.

Any expenditures exceeding the cap would be paid for in full by the users. While this cap is sound in theory, its present level is simply too high to achieve meaningful reform.

The Simpson Amendment, which proposed to lower the ceiling by \$35 million each year, would have greatly improved Title V and -- eventually -- the existing cost recovery system. We were pleased that eight Senators on this Committee voted for the Simpson Amendment. We would urge continued support for this concept.

Senate bill S. 1554, introduced last year by Committee Chairman Stafford at the request of the Administration, proposed to set inland waterway cost recovery at a 70 percent recovery level. We realize that the Simpson Amendment and the Administration's proposal each represents a substantial compromise from the 100 percent recovery level endorsed earlier by this Administration. We do not support a retreat from the principle of full cost recovery; but, we would urge the Committee to adopt either proposal to achieve the needed improvement over the \$646 million annual cap presently proposed in Title V of S. 1739.

The most crucial point about the existing inland waterway user charge system is that recovery levels are too low. Whether the Simpson Amendment, the Administration's 70 percent proposal, or some other similar arrangement is adopted, neither existing law nor the proposed \$646 million cap is adequate.

Why Higher Cost Recovery Is Important

Higher cost recovery serves a fiscal purpose. Nations have limited resources. Because of this limit, the federal government must ration the

use of its funds. For example, money spent to subsidize private navigation interests is money that cannot be used to finance necessary defense and entitlement programs or to lower the record deficits which are forecast for the next five years.

Higher cost recovery serves other purposes as well. A second major benefit of higher cost recovery is that it constitutes the best guarantee of sound project evaluation. After all, when the barge industry is using taxpayer money to build water projects, the need for analytical precision is small: a bad project simply wastes taxpayer money; it does not come from the pockets of barge operators. When public funds are used, projects can fail and only taxpayers are hurt. While it is true that even the private sector can make bad investments, forcing the barge industry to use its own money will minimize the economic disasters that many of the inland waterway project investments have been.

On February 7, 1963, before the House Appropriations Subcommittee on Energy and Water Development, Assistant Secretary of the Army William R. Gianelli testified (p. 10): "We believe that if a water project represents a sound investment, an investment whose benefits exceed its costs, the beneficiaries will be able to repay its costs over the life of the project and to organize new sources of financing which do not require outlays from the Federal Government of the magnitude as traditionally relied upon." Gianelli's prescription seems quite clear: the best way to select sound projects is to select those for which users have chosen to pay.

Eliminating the tendency to overbuild would be a third benefit from higher cost recovery. In other words, a given amount of efficiency gain

on the inland system can usually be accomplished by methods that cost less than new or added construction -- for example, peak use pricing of congested facilities. But, as long as users are not forced to pay for the solution that is chosen, then unnecessary construction will continue to be undertaken.

A fourth important benefit from higher cost recovery is the fact that meritorious projects would be accelerated. User charges could be used directly to finance the crucial projects. Without subjecting the project selection process to costly delays and debate over which projects to fund, project beneficiaries could reap investment returns sooner.

With regard to the Inland Waterway Users Board proposed in Title V, we feel it is a potentially sound concept and very consistent with the various objectives of higher cost recovery. Afterall, a chief premise of user charges is that if forced to pay, the industry will select only worthwhile projects. If the ceiling on federal funding of water projects is low enough, then users will be forced to pay and they will be meticulous in their project selection. Thus, if S. 1739 is revised to genuinely increase user charges, it seems only consistent to officially grant the users a role in determining how the money is spent.

On the other hand, if there is no meaningful increase in user charges, then the Users Board would seem superfluous. The Users Board will have insufficient incentive to oppose unworthy projects or shape user charges to produce efficient capacity utilization so long as projects are financed overwhelmingly by non-users.

The Impact on Carriers, Shippers, and Balance of Payments

The principal objection raised by opponents to full recovery user charges is that such charges will "harm" certain interests. Obviously, user charges will have impacts and there will be gainers and losers. If not, no one would care. At the same time, however, it is misleading to exaggerate the magnitude of those prospective changes, or to ignore the system's capacity to adjust to changes of the magnitude likely to occur. In fact, even under 100 percent recovery, the impacts are less than popularly perceived. Further, recovery proposals presently under consideration are far less than 100 percent; and finally, if a spending cap concept is implemented, no user charge increases occur at all unless spending exceeds the ceiling.

Claims of harm were elaborately studied in the Department of Transportation's Section 205 Study which found them to be greatly exaggerated. For example, the study found that while some barge traffic would certainly be affected in the short term, even under full cost recovery overall barge traffic would still grow at least 50 percent over 1977 levels by the year 2000 (see Section 205 Study: "Inland Waterway User Taxes and Charges," U.S. DOT (Washington, D.C., February 1982), p. 4).

Similarly, it noted that the most severe full cost recovery price impact on a bushel of grain was estimated at about 4 cents to 6 cents per bushel. This price impact is small compared to customary market force price swings, which in 1980 alone exceeded \$1.00 per bushel for corn and \$3.00 per bushel for soybeans (*Ibid.*, p.10).

Table 1 provides a comparison of selected grain prices over the 1982-83 period. The figures show some yearly price fluctuations of nearly \$4 (per bushel), all caused by factors other than user charges. Shortages produced by bad weather is one example; a swing in currency values is another. This currency factor may soon play a more dominant role in affecting grain prices, if fuel prices continue to stabilize. Vis-a-vis all European Common Market currencies and the Japanese Yen, the 1984 U.S. dollar is nearly 25 percent higher than in 1979 (The Economist; December 17, 1983, pp. 61-62). This has the effect of adding 90 cents to a bushel of grain compared to the pennies per bushel attributable to full recovery user charges.

Admittedly, some groups, particularly the barge operators, would still be left at least somewhat worse off as a result of higher user charges. These losses, however, would be more than offset by gains to taxpayers and unsubsidized shippers and carriers. In this fundamental sense, all of the impact studies are misleading. The most important impact of waterway user charges would be to produce a net improvement for the economy.

Further, in discussing how user charge impacts are overstated, it is important to dispel misconceptions regarding the relationship between user charges and the U.S. balance of trade. Some have charged that user fees will raise transport costs, reduce foreign demand for U.S. goods, and harm our balance of trade. While these events are theoretically possible, projected results are frequently exaggerated. In fact, higher cost recovery can even contribute to an improvement in our trade balance.

The importance of factors other than user charges and the capacity of export markets to absorb price increases both indicate that the foreign trade impact of user charges is negligible. The grain trade is a good illustration, where annual yield per acre (due primarily to weather) in different countries can sharply impact available supplies. In addition, changes in fuel costs, world economic conditions, and the strength of the dollar (relative to other currencies) can dramatically affect demand and prices.

Similarly, the ability to absorb price increases throughout the product marketing chain minimizes the net effect of user charges. For example, in the grain market price increases may be spread among carriers, farmers, grain elevator operators or other middlemen. In addition, certain countries may even intercede to raise or lower import prices in order to stabilize prices in their own domestic markets.

Further, given the size of the export grain market, it is not surprising that user charges could be absorbed. Annual U.S. grain exports exceed 100 million tons with a total value of more than \$15 billion. A 100 percent inland waterway user charge, in contrast, would probably add less than \$100 million to all U.S. grain shipments and only part of that in the export market. This amounts to less than 1 percent of the export value.

Whatever the impact of higher user charges on export prices, part of the result actually may be to help increase demand for U.S. exports. It is generally acknowledged that high interest rates, fueled by rising federal deficits, widen the gap between U.S. and foreign currencies. To

the extent cost recovery reduces deficits and causes interest rates to decline, the relative strength of the dollar may decrease and other nations will purchase greater amounts of U.S. goods.

These various factors alone would mitigate the impacts of high levels of cost recovery. Yet, two conditions strongly suggest that recovery levels themselves will actually be quite low, thus further reducing the extent of the impacts. First, often ignored by various impact analyses is the fact that current government expenditures probably overstate the amount of money that would have to be recovered by full cost recovery user charges. If imposed, such user charges would eliminate funding for projects where costs exceed benefits, and program expenditures would fall. User charge revenue targets would decline accordingly. The second condition is that 100 percent cost recovery seems certain not to occur for the foreseeable future; both the Administration proposal and the Simpson Amendment -- the most probable candidates for higher user charge legislation -- are far below full recovery.

Finally, if the spending ceiling concept is implemented, then no new user charges would result at all unless spending exceeds the ceiling. A scrutinized spending budget could eliminate further impacts altogether.

Conclusion

This Committee has specifically asked to what degree continued commercial navigation subsidy is warranted and how to encourage more cost effective inland waterway projects. We respect the Committee's genuine concern about curbing costs and identifying only the most necessary

federal water projects among a seemingly endless list of competing requests. We believe that significant levels of cost recovery would solve both dilemmas and that Congress should encourage such a solution.

Title V of S. 1739, if properly modified, has the potential for achieving some of the reforms that are needed. In its current form, however, it will only perpetuate the conspicuously flawed method of undertaking inland waterway commercial navigation projects in this country.

Again, let me express my appreciation for the opportunity to present our views. These matters are of vital significance to the railroad industry.

TABLE 1
CASH GRAIN PRICES^a
(\$ Per Bushel)

<u>Week Ended</u>	<u>1983</u>			<u>Comparable Week 1982</u>		
	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>
Jan 7	3.98	2.44	5.69	4.37	2.60	6.22
Jan 14	4.00	2.49	5.87	4.40	2.63	6.31
Jan 21	3.99	2.54	5.88	4.30	2.64	6.32
Jan 28	4.00	2.63	5.94	4.26	2.65	6.39
Feb 4	4.04	2.70	5.99	4.30	2.67	6.37
Feb 11	4.06	2.73	5.91	4.28	2.63	6.20
Feb 18	4.10	2.81	5.99	4.26	2.61	6.17
Feb 25	4.11	2.83	5.83	4.21	2.60	6.11
Mar 4	4.12	2.87	5.69	4.29	2.63	6.10
Mar 11	4.12	2.89	5.80	4.22	2.65	6.03
Mar 18	4.17	2.94	5.93	4.24	2.68	6.17
Mar 25	4.23	3.07	6.18	4.27	2.71	6.26
Apr 1	4.23	3.19	6.31	4.25	2.69	6.32
Apr 8	4.24	3.21	6.39	4.28	2.68	6.48
Apr 15	4.25	3.22	6.35	4.30	2.69	6.45
Apr 22	4.17	3.20	6.33	4.29	2.74	6.48
Apr 29	4.18	3.28	6.43	4.28	2.79	6.53
May 6	4.13	3.28	6.38	4.23	2.80	6.53
May 13	4.03	3.16	6.26	4.25	2.81	6.61
May 20	4.01	3.20	6.27	4.28	2.80	6.64
May 27	4.03	3.24	6.18	4.11	2.77	6.44
Jun 3	4.02	3.24	6.13	4.03	2.73	6.18
Jun 10	4.00	3.30	6.16	4.14	2.81	6.31
Jun 17	3.96	3.29	6.00	4.15	2.79	6.28
Jun 24	3.82	3.30	6.11	3.95	2.76	6.33
Jul 1	3.77	3.28	5.98	3.92	2.70	6.16
Jul 8	3.72	3.31	6.21	3.65	2.71	6.14
Jul 15	3.68	3.34	6.42	3.75	2.75	6.30
Jul 22	3.73	3.38	6.85	3.81	2.70	6.18
Jul 29	3.71	3.42	6.96	3.72	2.54	6.09
Aug 5	3.77	3.61	7.60	3.67	2.50	5.99
Aug 12	3.84	3.68	8.10	3.62	2.37	5.64

TABLE 1 (cont.)
CASH GRAIN PRICES
(\$ Per Bushel)

<u>Week Ended</u>	<u>1983</u>			<u>Comparable Week 1982</u>		
	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>
Aug 19	3.93	3.71	8.69	3.76	2.33	5.55
Aug 26	3.94	3.69	9.02	3.79	2.42	5.67
Sep 2	3.97	3.61	8.82	3.78	2.42	5.45
Sep 9	3.99	3.70	9.16	3.77	2.31	5.27
Sep 16	3.92	3.59	8.77	3.75	2.37	5.34
Sep 23	3.88	3.62	8.97	3.74	2.30	5.29
Sep 30	3.80	3.54	8.59	3.71	2.22	5.23
Oct 7	3.81	3.53	8.38	3.65	2.14	5.30
Oct 14	3.89	3.55	8.51	3.65	2.14	5.32
Oct 21	3.86	3.42	8.44	3.56	2.09	5.27
Oct 28	3.81	3.46	8.24	3.58	2.10	5.32
Nov 4	3.81	3.46	8.41	3.75	2.23	5.52
Nov 11	3.83	3.56	8.51	3.80	2.37	5.65
Nov 18	3.80	3.54	8.01	3.86	2.42	5.68
Nov 25	3.82	3.42	7.70	3.99	2.48	5.69
Dec 2	3.83	3.46	7.93	3.96	2.36	5.63

^a Wheat - #1 HRW-ORD., Kansas City. Corn - #2 Yellow, Chicago;
SB-1 Yellow, Chicago.

SOURCE: "Grain Transportation Situation," published weekly
by the United States Department of Agriculture.

STATEMENT OF GEORGE R. FRENCH, JR.
VICE CHAIRMAN, NATIONAL WATERWAYS CONFERENCE, INC.
BEFORE THE SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE
WASHINGTON, D.C.

January 24, 1984

My name is George R. French, Jr., Vice President-Distribution of the Atlantic Cement Company, Stamford, Connecticut, and I am Vice Chairman of the National Waterways Conference, Inc., a nationwide association of waterways users and beneficiaries in both the public and private sectors. Now in our 24th year, the Conference is composed of some 500 waterway-related member companies, organizations and agencies concerned, among other things, with the provision of an efficient, modern navigation system adequate to meet the transportation needs of a healthy and growing economy.

We are joined in this statement by a number of other waterway interests, whose names appear on the last page. On their behalf, and on behalf of the National Waterways Conference, I thank you for permitting us to testify today concerning Title V (inland navigation) of S. 1739, the Water Resources Development Act of 1983. We commend you, Senator Abdnor, and the members of your Subcommittee, for your stamina and diligence in search of solutions to the stalemate of recent years in the Federal water resources management program. The problem has particularly stymied the authorization of navigation-related projects. We hope that today's proceedings will bring us a step closer to the enactment this year of workable, far-sighted legislation authorizing necessary new projects and providing a cost-sharing formula which will not jeopardize the inland waterways but, rather, will work to enhance the vitality of the commercial navigation system.

It is in our interest as participants in one broad economic sector, it is in your interest as a policy-making body, and it is in the Nation's interest for employment, trade, and defense reasons — among others — for the current authorizing/financing

stalemate to be broken. We are here to offer constructive suggestions for amending Title V so as to increase the likelihood of widespread agricultural and industrial support, Congressional passage and White House acceptance of this legislation. We share with you a genuine desire to resolve this issue and to put it behind us so we can get on with the task of rebuilding a strong and vibrant national economy, one in which we can all share.

During, and long before, the three-year period in which the Subcommittee has been deliberating the user charge question under its current leadership, there has been continual pressure to increase the direct financial contribution of commercial waterway carriers and shippers to offset the cost of building, operating and maintaining navigation channels and structures. Fortunately, the Subcommittee did not go along with Administration proposals to immediately recover all or substantially all Federal costs presently allocated to a loosely defined navigation account — proposals which would have wrecked the economies of river valleys all over America.

At the same time, we are well aware of the fact that Federal outlays for navigation and other water resources programs have been steadily decreasing, in constant dollars, over the last decade. In the meantime, many navigation structures are wearing out or have become seriously congested so that a program of major rehabilitation or reconstruction of a few critical locks is urgently needed. We also recognize the necessity of reducing Federal deficits and restoring the fiscal integrity of the Federal government, steps which are deemed to be imperative to future inflation-free economic growth and prosperity benefitting all segments of our society.

Two Tests for Improving Cost Efficiency

The waterways industry seems to have reached a point — as several members of the Subcommittee have suggested during consideration of S. 1739 and related proposals — at which the continued provision of an adequate and modern inland navigation system appears to hinge upon the simultaneous occurrence of two changes in the traditional manner of authorizing, building, operating, maintaining and financing waterway programs:

- 3 -

1. A substantial reduction in the total cost of the inland navigation program through the construction or rehabilitation of only the most useful and commercially viable projects in the most cost-efficient manner and through the introduction of new economies and disciplines applied to on-going operation and maintenance (O&M) activities.

2. A direct user role in financing a fair share of the commercial navigation-specific costs incurred on this leaner, more efficient inland navigation system; in determining its size and scope; and also in planning and timing the rehabilitation or replacement of navigation facilities so as to effectively implement, over a period of years, a real "user pay/user say" program.

We have held Title V of S. 1739 up to these two tests, and we believe that the title could operate in such a way as to pass one of them, or the other, but not both at the same time. In the first instance, Title V sets a "cap" or freeze on Federal outlays for the Army Corps of Engineers' inland navigation obligation but in no way controls the total size of the navigation budget. In fact, Title V could have precisely the opposite effect. It could lead to substantial increases in the navigation budget regardless of the public worthiness or cost effectiveness of the various projects.

Title V simply turns over to the Secretary of the Army the authority to determine the size of the Corps of Engineers' shallow-draft navigation budget. It then stipulates that the Federal Treasury and the existing user tax proceeds will provide the first \$646 million per year of the budget, but there is no guarantee that the Secretary will obligate the full \$646 million. He may, in fact, choose to obligate only a portion of that amount — say, \$500 million or \$350 million — and impose user fees to make up the difference, which he would apparently have the full right and authority to do under Title V, despite any advice he might get from the Inland Waterway Users Board. We are very fearful, therefore, of the unbridled discretion which Title V gives to the Secretary of the Army to charge waterway shippers and carriers whatever he might choose, in whatever form (lockage fee, annual licenses, ton-mile levies, congestion tolls, etc.) he might desire, and in whatever time frame he might select.

If one were considering Federal cost reductions in the Comprehensive Employment and Training Act (CETA) program, rather than the navigation program, the

comparable solution would be to delegate to the Secretary of Labor the authority to set CETA's budget and then empower him to increase withholding taxes paid by employers of CETA trainees to whatever degree necessary to fund the program. It would be hard to imagine a Federal agency head who would not be delighted to have his agency's "runaway" spending curbed in this manner.

The proposed Inland Waterway Users Board is intriguing, and we endorse the concept of an industry board which has a key function in the decision-making process if that industry is going to be directly involved in providing the financial support. However, we are concerned that the Users Board as constituted in Title V is powerless. Its role is purely advisory. Even if that were not the case, Title V in its present form would still fail to pass both of our tests simultaneously. A strong users board, having no internal control over navigation costs, would simply resist user tax increases. Assuming its advice were heeded, few new projects would be built and the navigation program would remain frozen at or near the 1983 level. Eventually, O&M outlays would consume the entire amount.

We urge you to enact legislation which simultaneously meets both tests -- controls navigation costs and increases user participation in the process. We have detailed and specific suggestions for doing that, but first I would like to describe the organizations and interests whose views are represented in this statement and discuss a few broad premises which have brought us to our conclusions about S. 1739.

The diversity of participants in this statement illustrates the breadth of the economic sector sometimes euphemistically referred to as the "waterways industry." Included are corporations, cooperatives, utilities and public entities which have committed considerable capital and based long-term management decisions on the availability of dependable waterway transportation: barge and towing companies; waterway equipment construction, repair and marine service firms; port authorities and intermodal transfer facilities; banks and insurance companies; electric utilities; mining, raw materials and energy industries; industrial manufacturing and heavy construction; producers and processors of farm commodities; the steel, chemicals and

building materials industries; and many other enterprises which contribute to domestic productivity, commerce and economic growth as well as to international trade. In addition, numerous agricultural and industrial associations, river valley organizations and economic development commissions have a vital stake in the continued strength and stability of the waterways industry.

The Current Status of Waterway-Related Industries

The important role played by inland waterway transportation in America's industrial and farm vitality has been well documented before this Subcommittee in recent months. In 1980, shallow-draft waterways accounted for slightly more than 13 percent of the total ton-miles of U.S. intercity freight. Barges are particularly suited to movement of bulk cargoes such as raw materials; coal, petroleum and other energy products; liquid and dry bulk chemicals; iron and steel; wood and paper products; heavy equipment; cement and other building materials, and farm commodities and supplies.

While there may be signs of a general economic recovery on the horizon, I can report to you that America's basic "smokestack" industries — those which are the predominant users of waterway transportation — are far from rebounding. Industrial traffic has been declining since 1980, and as much as one-fourth to one-third of the shallow-draft barge fleet is reported to be idle. So much excess capacity and so little traffic has caused barge rates to hit rock-bottom, pushing scores of operators into the red. Construction of river equipment has faltered, with layoffs affecting as much as 75 percent of the work force at inland shipyards.

Similarly, America's grain producers face very uncertain times. They possess only a limited ability to pass through increased production or transportation costs, such as higher user taxes. They trade in world markets and generally must sell at the prevailing world price or not at all. The recent announcement of a major round of steel mill closings vividly illustrates the continuing difficulty gripping major manufacturing sectors. And markets for coal and petroleum, which usually move in substantial quantities by barge, also remain soft.

In short, most domestic waterway carriers, and a lot of their major shippers, are too concerned with their survival in the current economic climate to be able to ponder long-term capacity constraints facing the waterways system — much less entertain the possibility of assuming an increased financial role in the system's modernization and upkeep, at least anytime within the next year or so. While S. 1739 attempts to take waterway users' plight into consideration by imposing higher user fees only if the Army Corps of Engineers' navigation expenditures exceed a certain level, the legislation could nevertheless result in substantial increases in waterway user taxes — a quadrupling of the current fuel tax, in fact — by the late 1980's, assuming that work gets underway promptly on inland navigation projects awaiting authorization. Yet, there is no solid evidence at hand that waterborne commerce will rebound within the next few years to a level sufficient to absorb such a high-level tax increase.

Thus, Title V's "pay-as-you-build" approach poses a difficult dilemma for waterway users. On the one hand, long-delayed modernization and improvement projects are badly needed to remove traffic bottlenecks, enhance the efficiency of the inland navigation system, and assure that it is able to meet future needs. But, on the other hand, the cost of constructing navigation works which are pending or proposed could be so steep — even with the "cap" included in Title V — as to force traffic off the waterways: interior origins for various barge-transported products would be abandoned in many instances for cheaper coastal or foreign sources; U.S. farm products, coal, etc., could lose vital overseas markets; and disinvestment could begin to occur at industrial sites along the inland river valleys. If so, this could substantially reduce the volume of waterborne commerce, leaving new navigation projects largely unused and impeding economic recovery prospects. Hopefully, such a quandary can be avoided through the adoption of several modifying amendments which we propose.

Despite traffic declines attributable to the economic downturn experienced by basic industries, commercial waterway users generally express a willingness to contribute a "fair share" of the costs of maintaining, modernizing and improving the navi-

gation system so that it will be adequate to serve the traffic demands once economic recovery extends to waterway-oriented regions and industries. This willingness to participate directly in the financial structure of the waterway system is guided by several basic premises:

- The era of major navigation construction is ending, and primary emphasis must now be put on timely maintenance and rehabilitation of the existing system to relieve congestion, replace delapidated facilities, and increase overall efficiency. Because reconstruction of bottleneck or worn-out navigation locks could total \$1 billion or more per year, in addition to rapidly increasing O&M outlays, it is imperative that great care be exercised in selecting projects for replacement or for rehabilitation. In other words, more discipline must be introduced into the decision-making process.
- Because they will be shouldering part of the financial burden, waterways users and beneficiaries must have more input in determining which projects are to move forward, which projects should have priority, which projects should be rehabilitated rather than reconstructed, etc. Such a "user pay-user say" procedure should be recognized and explicitly expressed in any new user charge legislation. By the same token, there is justification for a concomitant "no pay-no say" policy.
- Any new program of navigation cost sharing should recognize the public interest aspects involved in the provision of an adequate and efficient waterways system for purposes of stimulating commerce and employment, regional and national economic development, increased international trade, etc., as well as contributing to defense preparedness and national emergency needs and aiding energy efficiency in the transportation of raw materials and bulk commodities. The lack of a definitive procedure for accurately ascertaining navigation-specific costs attributable to commercial waterway users and for making allowance for the competitive impact of continuing Federal subsidies benefiting other modes, particularly railroads, prevents the establishment of an accurate navigation cost base. Logically, the determination of this cost base must be made before any soundly reasoned, realistic user charge policy can be implemented.
- In view of the recession still gripping the waterways industry and many of the industrial and agricultural sectors which it serves, it is extremely doubtful that any higher user charges can be passed on in the form of barge rate increases or absorbed as a cost of doing business. If nevertheless imposed, high-level user charges would merely add to current economic woes, bringing on more business losses and/or failures. If it is ultimately decided that higher user charges are warranted, it is extremely important that any increases be phased in over the long term — when hopefully river valley economies will have recovered, overseas markets will have been re-established, and waterborne commerce will have increased to volumes able to sustain user charge increases.

We believe that S. 1739 goes a long way toward addressing these principles, at least in the short-term, and our comments and recommendations are directed to strengthening the legislation in such a manner as to make it acceptable to a

wide range of waterway users and beneficiaries. We hope the changes which we propose in this statement will have the approval of the Subcommittee and that the suggested amendments will make possible the long-sought compromise on user charge policy which has been so elusive in the past and which will also allow the authorization of high-priority navigation projects. At the same time, it is important that any compromise be "fair" to all of the various regions, industries and interests which have a stake in national waterways policy and which rely on the U.S. navigation system to provide the catalyst for future economic growth.

The National Importance of Waterway Transportation

Our navigable waterways are part of a multiple-purpose water resources management program whose value to the Nation as a whole has led a succession of Congresses and Presidents to support the investment of Federal dollars in construction and upkeep. The transportation benefits of inland waterways have been, and are, integral to our ability to mobilize resources and industrial output in times of national emergency; to our agricultural and economic productivity in peacetime; to large-scale participation in world trade, particularly with respect to agricultural products; and to the vitality of interior regions where, save for the waterways, competitive transportation services are often lacking.

Historically, the Federal government has provided locks and dams, channel improvements and maintenance of the inland rivers — improvements to the "rights-of-way" over which barges travel. Many private carriers — in fact, about 1,800 separate companies at latest count — compete intensely for commercial cargoes over this public transportation artery, with the result that rates are highly competitive and the benefits of the government-provided improvements are passed along to shippers. The real beneficiaries are the miner, the industrial mill worker, the farmer, and the consumer of goods which are transported by barge — a very broad segment of the populace.

Moreover, transportation savings are frequently enjoyed by shippers and receivers of goods which move by rail as well as barge, since waterways rates tend

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to establish the rate "floor" for much of the freight transportation sector. Indeed, this competitive effect even occurs over some rail routings many miles removed from the river's edge. Thus, farms, factories and mills located 100 miles or more from navigable waterways often benefit from reduced "water-competitive" overland freight rates.

We submit that the public importance of waterway transportation is not diminished by the current size of Federal deficits, for which some years of declining waterway appropriations are hardly responsible. Rather, the stalled economy — which the deficit reflects — requires a competitive, productive, affordable transportation system more than ever!

The Large Backlog of Needed Navigation Work

The critical question for this Subcommittee is the degree to which Federal support for navigation projects can and should be provided to assure the continued maintenance and orderly improvement of the navigation system. Title V of S. 1739 seems to pay homage to the essential public value of waterway transportation by authorizing continued annual obligations for inland navigation construction and operation and maintenance (O&M) up to the level of the most recent year, FY 1983. It is important to note, however, that most on-going construction was nearing completion in 1983, and maintenance expenditures were frugal. Indeed, the fiscal year began with the Administration's attempt to cut the O&M budget by \$150 million below anticipated needs, and much of the deliberation in Congress over appropriations was aimed simply at restoring the budget to a minimal level. In short, 1983 was the latest in a series of recent years in which tight reins were imposed on Federal expenditures for navigation; the backlog of needed new construction grew; and the maintenance program was a conservative one at best.

By contrast, the years ahead may well demand substantial new investment in both construction and O&M. There has been discussion in this Subcommittee as to the need to "rebuild" the entire inland navigation system within the next few years.

In its 1977 report (Senate Report 95-215) on legislation authorizing reconstruction of Locks and Dam 26, this Subcommittee noted that "the United States appears ready to embark on a major program to rehabilitate its inland waterways. *** Projects valued at billions of dollars more are under consideration." Except for the first chamber at L&D 26, nearly all of the work referred to in the report is yet to get underway.

Costs have mounted as the Nation has waited. The Corps of Engineers' National Waterways Study provides an inventory of the necessary new work and increased O&M needs likely to arise between now and the turn of the century. The "Supplemental Report, National Waterways Study and Current Navigation Activities," dated March 1983, identified 118 of the inland system's 225 navigation locks as being at least 40 years old. Indeed, 61 of these locks are 50 years old or more. Fifty years, we would point out, is generally the engineering design life of a navigation lock.

The National Waterways Study classified 48 locks as "candidates for replacement or rehabilitation by 2003 because of age (50 years old or over) and utilization (more than 30 percent of the time)." Other capital investments to improve system efficiency or capacity were also deemed to be warranted. All told, the study found that some \$11.8 billion in capital costs (expressed in 1982 dollars) would be required during the next 20 years to provide a waterways system able to move traffic volumes anticipated by the advent of the 21st Century. These projected costs come to approximately \$1 billion a year!

Suggested Amendments to S. 1739

With specific reference to the pending legislation, S. 1739, we offer the following comments and recommendations. Generally, we believe that the bill needs to be amended or modified in these respects.

1. Curb the cap. We suggested at the outset that Title V in its current form fails to assure the simultaneous realization of what should be the legislation's two principal goals: paring down the cost of the inland navigation program and

directly involving the users in a true "user pay/user say" scheme of planning, constructing, operating and financing the inland navigation system.

We recommend that the cap be set at a level which realistically reflects the level of navigation expenditures which are needed and the Federal interest in the inland waterway program but that the cap operate only for a period of three years — not 14 years. The 14-year duration of the Federal spending freeze proposed in Title V has no rational connection to the problem, nor has anyone on the Subcommittee or its staff articulated — in the report or otherwise — any basis for the 14-year duration. The choice is altogether Orwellian. It could be less significant that the freeze would expire in the year 2000 than that it could get enacted in the year 1984.

Our proposed three-year freeze, on the other hand, is tied to something real: a commission of user representatives with a three-year deadline to recommend a specific plan for the future development, maintenance, operation and funding of the Nation's inland navigation system.

While the proposed cap is operative, we strongly urge that the cap apply only to Federal dollars. Revenues accruing to the existing Inland Waterways Trust Fund — into which are channeled user taxes already being paid by commercial waterway operators — should be treated separately. If part of the cap comes from the Federal government and part comes from the user taxes, it makes no sense to mix the Federal share with the user share. Trust Fund revenues should be duly credited as user contributions, over and above the legislated ceiling imposed by Section 501.

2. Specify user participation. We propose the creation of a commission of inland waterway interests which the President would appoint from lists of qualified individuals nominated by system users and beneficiaries, which would have a clear mandate, and which would have a deadline — three years. It should be charged with recommending to Congress a specific plan for solving the problem of providing

and funding a first-class navigation system. Its recommendations should include, but not be limited to, the following:

(A) The classification of the existing 25,000-mile inland navigation system into various categories or components, including (1) commercially viable waterways which move substantial volumes of waterborne cargoes and (2) developing waterways which are still under construction or which have recently been completed. The commission should recommend whether or not different user charge programs should be considered for each particular waterway category.

(B) Estimation of the O&M needs of the inland navigation system over a realistic multi-year period, or perhaps seven to 10 years, and of the long-term navigation construction, replacement and rehabilitation needs and the total costs involved. Necessarily, such a cost estimation process must be predicated on some decisions as to the need for various projects, their design scope, construction timing, etc.

(C) Development of a realistic cost base, taking into account the demonstrated public benefits derived from waterway transportation — industrial productivity, increased job opportunities, higher farm incomes, export expansion, an enhanced balance of trade, national defense, and other contributions to the Nation's economic strength. In addition to these public value aspects, the cost base attributable to the commercial navigation segment must consider the effect of Federal railroad subsidies on barge line operations and, also, the relationship of navigation to the other components of multiple-purpose water resources programs. Navigation cannot bear more than its fair share of total system costs.

(D) A plan for financing the future construction, operation and maintenance of the navigation system, and its various categories as described above, including an annual Federal contribution which, for at least the first decade, shall not exceed the cap. The plan would set long-term annual obligation levels, propose definitive user charge legislation, and/or advocate other mechanisms for providing the requisite non-Federal cost share of the inland navigation program as well as recommend authorization of any additional projects which may be needed in the context of the long-term plan.

Be assured that we are not simply recommending a commission to undertake just another study. Every aspect of the project authorization/user charge issue has been studied and debated in great detail: the recent National Waterways Study considered navigation improvements needed between now and 2003, the Section 205 study assessed the impact of higher user charges, dozens of state and regional impact studies contained voluminous data on the prospective affects of high-level user taxes, and other studies have analyzed the mechanics of implementing every type of user charge from ton-mile levies to congestion tolls. The facts, we submit, are rather well known. The debate lacks only a real-world decision. The commission which we propose would be charged with recommending a decision. Congress would then vote it up or down.

The proposed Inland Waterway Users Commission would include both Federal and non-Federal representatives and might be framed in a manner paralleling the U.S. Railway Association's board of directors. For each of seven seats representing rail management, labor, shippers and other interests, the U.S.R.A. act (Public Law 93-236) identifies specific groups which are to "recommend" lists of three or more qualified individuals, from whom the President makes appointments subject to Senate confirmation. These seven public members, together with three Cabinet-level agency heads named in the act and an independent chairman appointed by the President, make up the U.S.R.A. board's membership. The public members, including the Chairman, serve six-year terms, a portion of which expire every two years. For our suggestions as to the composition of a similarly constituted Inland Waterway Users Commission, see Appendix A.

3. Limit the Secretary of the Army's discretionary authority. One of the most troubling aspects of Title V is the fact that it would delegate virtually unlimited discretion to the Administration to determine waterway spending levels and to impose user fees. The Administration would be constrained only by the persuasive ability of a vaguely defined industry advisory board whose members would serve at the pleasure

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of the Secretary of the Army. We are deeply troubled that Section 502 conveys to the Secretary so much authority governed only by individual judgment or choice.

We question the wisdom of delegating what amounts to taxing powers to the Secretary of the Army. Whether they are called user charges or user taxes, we believe Congress should refrain from delegating its revenue-raising prerogatives to the Executive Branch. This is Congress' responsibility.

Presumably, the Secretary of the Army would have authority under Section 502 to impose ton-mile levies, lockage fees, construction surcharges, annual license fees, congestion tolls, or such other types of user charges. Besides placing too much discretion in the hands of the Secretary, this would undoubtedly lead to endless debate about the advantages and/or disadvantages of each charge system. Instead, we urge that the Congress retain the authority to raise revenues for navigation programs. We are especially appalled at the possibility that the Secretary of the Army would be able to impose so-called "congestion tolls" at bottleneck facilities — which would be extremely disruptive to waterway shippers and carriers.

4. Retain Congressional jurisdiction over user charge policy. This jurisdiction could be placed in jeopardy by Section 504 of Title V. It amends an 1884 Act, as subsequently amended by a 1909 Act, prescribing the authority of the Secretary of the Army to replace or repair navigation projects under certain circumstances. The amendment is necessary because of Federal court rulings challenging the Secretary of the Army's authority under the 1909 Act.

While clarifying the Secretary's authority in undertaking reconstruction or replacement projects, Section 504 repeals the historic prohibition against "tolls or operating charges" which has long been a part of national law. Elimination of this prohibition could trigger the imposition of cost-recovery user charges by administrative order. In fact, Title V of the Independent Offices Appropriations Act of 1952 (5 U.S.C. 140) directs Federal agencies to impose user fees to recover agency costs, except as otherwise prohibited by law.

In short, we fear that Section 504 in its present form would empower the Administration to levy waterway user charges or tolls irrespective of the obligation cap specified in Section 501 and/or spending levels recommended by the users board established in Section 503. The Administration would appear to have no choice in this matter. We believe that the original language prohibiting tolls or operating charges, as enunciated in the 1909 Act, should be retained so that Congress will be able to continue to exercise jurisdiction over the establishment of user charges policy and not delegate this authority to the Administration. For specific amendments which we recommend, please see Appendix B.

Alternatives to S. 1739

An omnibus water resources project authorization bill, including most of the same projects as S. 1739, is under consideration in the House. The House bill (H.R. 3678), however, contains a fundamentally different approach to funding inland navigation projects. It treats the nationally important inland navigation improvements in a separate title, and provides that one-third of their construction costs come from the Inland Waterways Trust Fund. Construction of smaller local projects, as well as operation and maintenance of the entire system, would remain a Federal responsibility.

While it is projected that the current user tax would be sufficient to meet the Trust Fund obligations incurred from construction of the seven "priority" inland navigation projects under the House plan, a fuel tax increase could become necessary if the 33 percent cost sharing envisioned in the House bill were applied to other major navigation improvements in the future.

While we have responded in good faith to the Subcommittee's request for suggestions and recommended improvements regarding S. 1739, we should like to point out that there is a great deal of support in the waterways community for H.R. 3678. It provides for a more gradual transfer of the burden for waterway programs to the private sector, recognizing their vital function in the general economy. A coupling of the user advisory role envisioned in the Senate bill with the user-

funding provision in the House bill might bring just the right measure of discipline to waterway project construction without causing economic havoc for major sectors of the industrial and farm economies which are reeling from the lingering effects of the recession.

Fiscal Policy vs. Transportation Needs

The November 28, 1983, announcement of these hearings posed specific questions involving the structure of the Inland Waterway Users Board and the delegation of authority to the Secretary of the Army to administratively impose waterway user charges to offset whatever outlays might be necessary over and above the cap. We have attempted in our statement to address these questions as well as other matters which we believe will strengthen Title V of the pending legislation.

In addition, the hearing announcement posed two questions which are more general and speculative in nature. One was this: "To what degree will, or should, Title V encourage more cost-effective work?" It appears to us that, unless the proposed cap is increased or waterborne commerce dramatically rebounds, the provisions of Title V would tend to stabilize waterway expenditures at or near the austere levels of recent years. Such austerity is not synonymous with cost-effectiveness. If anything, the "penny-wise, pound-foolish" theorem may be more applicable.

We said at the outset that the era of opening major new inland navigation routes may be nearing an end, with the emphasis shifting to maintenance and modernization of the existing system. Nevertheless, lock enlargements and replacements such as those identified by the National Waterways Study or, for that matter, those proposed for authorization in the pending legislation, are large-scale capital investments whose economic benefits are returned over an extended period of years. The "pay-as-you-build" approach embodied in Title V could tend to discourage long-term investments of this type, favoring instead solutions which may cost less in the short-run but also be less cost-effective in the long run. For example, Title V might well result in the continual repair and rehabilitation of certain locks when

their replacement with a modern facility with expanded capacity for future traffic demands might actually be the most cost-effective solution over time.

It is difficult to do more than speculate on this probable effect since Title V proposes no actual changes in the planning and benefit-cost methodology by which the cost-effectiveness of waterway projects is determined. However, once Title V became operative, it would appear that projects with the lowest capital cost would progress more rapidly while more expensive ones would be delayed irrespective of the relative benefit-cost ratios over the life of the projects.

Your announcement also posed this even-broader policy question: "To what degree should the Federal government continue to subsidize commercial navigation, in view of the budget deficits confronting the Nation?" The question implies that the soaring Federal deficits of recent years have been the result of Federal expenditures for navigation. In fact, the precise opposite is true. The Corps of Engineers' budget for port and waterway construction and O&M has been steadily declining in recent years while other areas of discretionary and non-discretionary Federal spending — together with changes in the general tax structure — have fueled the rising deficits. The recession has also played a major role.

In constant 1984 dollars, the Corps of Engineers' civil works program has declined from about \$4 billion to about \$2.6 billion in annual outlays between 1968 and 1983. Within that program, expenditures for construction fell from \$2.9 billion in 1968 to \$1.2 billion in 1983. At the same time that waterway expenditures have been declining, waterway users have been paying a steadily increasing user tax which began at 4¢ per gallon on diesel fuel in 1980, is now at 8¢ per gallon, and, under the existing statute, will rise to 10¢ in 1985. In other words, navigation taxes increased by 33 percent last year and will escalate by another 25 percent next year!

Fairness and Equity in Waterways Policy

We submit that few other Federal activities have simultaneously experienced a decline in expenditures and an increase in Federal taxation of the program's clients.

Nevertheless, waterway users would like to be able to do even more to help the Nation, and the inland waterway program, through these difficult fiscal times. We are willing to shoulder a fair share of the burden, but our most immediate concern is to assure the viability and improved health of basic industrial and agricultural shippers, as well as the carrier industry, all of which have been seriously crippled by the recession. Waterway users simply cannot afford increased operating costs, such as a new layer of user charges, at the present time.

In the future, a larger user role may be in order. Nevertheless, the national interest justifies a significant continued Federal role in the navigation program, irrespective of any temporary conditions of fiscal health which may apply now or later to waterway carriers and/or shippers. That Federal role is, and always has been, part of a three-way partnership involving the Federal contribution, state and local initiative, and private industry investment.

Federal assistance to inland navigation has been merely "seed money" yielding a bountiful return for the Nation. It has been matched by substantial contributions by non-Federal entities and by huge infusions of private capital in the form of plant sitings, industrial expansion, riverside terminals, elevators, various cargo handling and warehousing facilities, and so forth.

The Federal investment has spawned much larger non-Federal contributions to the partnership — producing jobs, incomes, and tax revenues to the U.S. Treasury perhaps exceeding the original expenditure. In addition to the "transportation savings" benefits counted by the Corps of Engineers in its restricted project benefit-cost analyses, the general public has benefitted even more directly as a result of the economic growth, and hence Federal revenues, which have flowed forward from this three-way partnership.

Non-Federal interests have a vital stake in the inland navigation program and do not, in our judgment, wish to shirk their fair share of the responsibility for such programs. However, users' acceptance of a greater burden for waterway investments is conditioned upon the broad questions of equity and policy we have

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discussed today. We have tried to offer specific ideas for modifying Title V of S. 1739 in such a way that these concerns might be satisfied. We are committed as we believe this Subcommittee is to seeing a workable compromise achieved in Congress this year which will result in the enactment of new omnibus water project authorization legislation.

Thank you very much.

ALABAMA STATE DOCKS DEPARTMENT
Mobile, Alabama

ARKANSAS BASIN DEVELOPMENT ASSOCIATION
Tulsa, Oklahoma

ARKANSAS WATERWAYS COMMISSION
Little Rock, Arkansas

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS
New Orleans, Louisiana

CITY OF TULSA-ROGERS COUNTY PORT AUTHORITY
Catoosa, Oklahoma

GULF INTRACOASTAL CANAL ASSOCIATION
Friendswood, Texas

LOUISIANA INTRACOASTAL SEAWAY ASSOCIATION
Lafayette, Louisiana

NATIONAL WATERWAYS CONFERENCE, INC.
Washington, D.C.

PACIFIC NORTHWEST WATERWAYS ASSOCIATION
Vancouver, Washington

TRANSPORTATION INSTITUTE
Washington, D.C.

WARRIOR-TOMBIGBEE DEVELOPMENT ASSOCIATION
Birmingham, Alabama

INLAND WATERWAY USERS COMMISSION

The Board shall consist of 12 individuals, as follows:

- (1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;
- (2) three Government members, who shall be the Secretary of the Army, Secretary of Transportation and Secretary of Agriculture, or their representatives;
- (3) eight nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis:
 - (A) three to be selected from a list of qualified individuals recommended by the American Waterways Operators, Inc., or its successor who are engaged in the barge and towing industry, with one of the three individuals representing waterway common carriers active on the midcontinental river system; one representing private, contract, or independent waterway carriers active on the midcontinental river system; and one representing waterway carriers primarily active on the Atlantic Intracoastal Waterway, Gulf Intracoastal Waterway, or Columbia-Snake-Willamette River System;
 - (B) one to be selected from a list of qualified individuals recommended by the American Soybean Association, National Association of Wheat Growers, National Council of Farmer Cooperatives and National Grain and Feed Association or their successors who are representatives of agricultural shippers and who are waterway users;
 - (C) one to be selected from a list of qualified individuals recommended by the National Waterways Conference, Inc., or its successor representing waterway shippers who are primarily involved in the shipment of commodities other than agricultural products;
 - (D) one to be selected from a list of qualified individuals recommended by the American Association of State Highway and Transportation Officials and by the National Governors Association or their successors representing state governments having a direct stake in shallow-draft waterway transportation;
 - (E) two to be selected from lists of qualified individuals recommended by the Arkansas Basin Development Association, DINAMO/OVIA, Gulf Intracoastal Canal Association, Missouri River Basin Association, Pacific Northwest Waterways Association, Upper Mississippi Waterway Association and Warrior-Tombigbee Development Association or their successors representing regional interests involved in navigation programs.

As used in this section, a list of qualified individuals shall consist of not less than three individuals.

Specific Amendments to Title V

Sec. 501. In Lines 4-6, delete the words "and the Inland Waterways Trust Fund, established pursuant to section 203 of Public Law 95-502,"

Explanation: User contributions should not be included within the cap. In addition, we point out that in our judgment an annual obligation frozen at \$646,000,000 is not realistic and that the cap should be increased.

Sec. 502 (a). In Line 16, following the words "United States" insert the following: "for obligations required in excess of the cap specified in section 501 and"

Explanation: This new language is needed to insure against the possibility that the Secretary of the Army might, in his discretion, obligate less monies than specified in the cap and impose user charges to provide any additional funds which might be required.

Sec. 503 (b) (1). In Line 12, following the words "fiscal year." add the following new sentence: "To provide an office and support staff for the Users Board, an expenditure not to exceed \$100,000 per annum is authorized."

Explanation: In order to function properly, the Users Board must have a headquarters office and a support staff of perhaps two persons, requiring a minimal expenditure in relation to the total inland navigation budget.

Sec. 503 (c). In Lines 23 and 24, strike the following words "the Users Board recommends" and in Line 24 following the word "obligations" insert the word "are".

Explanation: This change is necessary to insure that any unobligated portion of the cap is carried over to future years — not, as the section presently reads, any obligations less than the Users Board's recommendations.

Sec. 504. In Line 8, delete the words "to read as follows:" and insert "by adding a period in place of the semicolon after the 52nd word, striking the following words and adding the following language:"

In Line 9, delete the words "Sec. 4."

Explanation: This amendment is necessary to retain the historic prohibition against "tolls or operating charges" in the U.S. Code so that Congress can, therefore, retain jurisdiction over waterway user charges policy. If the prohibition against user charges policy is deleted from the law, we believe that the Executive Branch could then impose such charges administratively — as, in fact, the Independent Offices Appropriations Act of 1952 requires.

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STATEMENT
OF
THE AMERICAN WATERWAYS OPERATORS, INC.
on
S. 1739
THE WATER RESOURCES DEVELOPMENT ACT
before the
SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

January 24, 1984

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, WE APPRECIATE THIS OPPORTUNITY TO COMMENT ON TITLES V AND X OF S. 1739, THE WATER RESOURCES DEVELOPMENT ACT OF 1983.

I AM JOE FARRELL, PRESIDENT OF THE AMERICAN WATERWAYS OPERATORS, INC. (AWO), THE NATIONAL TRADE ASSOCIATION REPRESENTING THE INLAND AND COASTAL BARGE AND TOWING INDUSTRY. OUR MEMBERSHIP OPERATES ON THE U.S. INLAND WATERWAY SYSTEM AND ON THE EAST, WEST AND GULF COASTS OF THE UNITED STATES. OUR 250 MEMBERS RANGE FROM COMPANIES OWNING AND/OR OPERATING ONE OR TWO VESSELS TO THOSE WITH OVER 60 TOWBOATS AND 1600 BARGES.

I WISH TO NOTE AT THE OUTSET OF MY TESTIMONY THAT OUR INDUSTRY TESTIFIED AT THIS SUBCOMMITTEE'S HEARINGS HELD JULY 18, 1983 ON NATIONAL POLICIES AFFECTING SHALLOW-DRAFT NAVIGATION PROGRAMS AND SPECIFICALLY ON S. 1554, THE ADMINISTRATION'S COST RECOVERY LEGISLATION. HOWEVER, UNTIL TODAY THERE HAS BEEN NO PUBLIC FORUM AT WHICH TO EXPRESS VIEWS ON THE NEW CONCEPTS CONTAINED IN S. 1739, A BILL ALREADY MARKED UP AND PASSED OUT OF THE FULL COMMITTEE. WE TRUST THAT THIS BILL'S FLOOR MANAGERS WILL AMEND IT ON THE BASIS OF TESTIMONY OFFERED DURING THESE HEARINGS BY THE USERS OF THE SYSTEM.

WE HAVE STRUCTURED OUR TESTIMONY TO RESPOND BOTH TO THE QUESTIONS RAISED IN THE COMMITTEE'S NOV. 28 COMMUNICATION AND ALSO TO ADDRESS GENERAL PHILOSOPHY REGARDING NAVIGATION COST RECOVERY LEGISLATION.

BEFORE GETTING INTO THOSE MATTERS I BELIEVE IT IS IMPORTANT TO ASSERT SOME FUNDAMENTAL PRINCIPLES ABOUT THE MAKING OF PUBLIC POLICY, ESPECIALLY IF THAT POLICY IS TO BE EMBEDDED IN LAW.

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REASONABLE PEOPLE CAN AGREE THAT POLICY PROPOSALS SHOULD BE SUBJECTED TO CERTAIN TESTS SO POLICYMAKERS WILL HAVE ADEQUATE ASSURANCE THAT THE PUBLIC INTEREST WILL BE SERVED BY THE PROPOSED POLICY. WE NEED TO UNDERSTAND AT LEAST THE BROAD CONSEQUENCES OF WHAT IS BEING PROPOSED BEFORE ENACTING ENABLING LEGISLATION. IN THE INSTANCE OF LEGISLATION WHICH IMPACTS ON COMMERCE TRANSPORTED ON THE WATERWAYS OF THE UNITED STATES, INLAND AND COASTAL, WE BELIEVE THAT UNDERSTANDING THE CONSEQUENCES MEANS APPLYING THESE TESTS:

- o IS THE POLICY EQUITABLE TO AFFECTED PARTIES?
- o WILL THE NEW POLICY PROMOTE COMMERCE?
- o WILL IT ENHANCE COMPETITION?
- o WILL IT PROMOTE EFFICIENCY?
- o DOES THE PROPOSED POLICY MAINTAIN THE NECESSARY GOVERNMENT BALANCE TOWARD ALL THE MODES?

WE WILL ATTEMPT TO APPLY THESE TESTS IN OUR TESTIMONY TODAY.

I SHOULD SAY AT THIS POINT, OUR INDUSTRY BELIEVES THAT H.R. 3678 MEETS THESE TESTS WELL, AND, FOR THAT REASON, WE SUPPORT THAT BILL.

TITLE V

THE CENTERPIECES OF TITLE V ARE THE PROPOSED CAP ON FEDERAL EXPENDITURES ON THE INLAND WATERWAYS AND THE INLAND WATERWAYS USERS BOARD. WE BELIEVE THAT BOTH OF THESE CONCEPTS DO NOT PASS THE TESTS.

THE CAP IS ON EXPENDITURES ONLY, NOT ON COSTS, LEAVING THE PRIVATE SECTOR EXPOSED TO UPWARD SPIRALLING AND UNPREDICTABLE COSTS. COSTS WILL BE DRIVEN BY, AMONG OTHER THINGS, OVERRUNS, INFLATION AND THE WILL OF THE CONGRESS. THIS IS A FUNDAMENTALLY IMPORTANT FACT: CONGRESS WILL DECIDE ULTIMATELY WHAT WILL BE

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BUILT, WHAT WILL BE REHABILITATED, WHICH PROJECTS WILL GO FORWARD AND WHEN...IN SUM, HOW MUCH WILL BE SPENT AND OVER WHAT PERIOD OF TIME. THE USERS BOARD CONCEIVED IN S. 1739 WOULD BE, IN FACT, AN ADVISORY BODY ONLY. NO BOARD OF PRIVATE CITIZENS, EVEN IN CONCERT WITH THE SECRETARY OF THE ARMY, CAN PREEMPT CONGRESS' POWER OF THE PURSE, AND NO ONE SHOULD BE MISLED TO BELIEVE THAT IT COULD.

THE CAP IN S. 1739 SWEEPS UP REVENUES FROM THE INLAND WATERWAYS TRUST FUND. THE CONCEPT OF A CAP DEFINING FEDERAL CONTRIBUTIONS MUST NOT INCLUDE MILLIONS OF DOLLARS IN ANNUAL PRIVATE SECTOR PAYMENTS IF EQUITY IS TO BE PRESERVED. BUT, EVEN MORE NOTABLE IS THE FACT THAT THIS PART OF S. 1739 RUNS COUNTER TO CONGRESS' INTENT WHEN IT ORIGINALLY ESTABLISHED THE TRUST FUND FOR CAPITAL ASSET IMPROVEMENTS ONLY. S. 1739 WOULD OPEN UP THE TRUST FUND TO O&M, AS WELL.

THERE IS ANOTHER FLAW IN THE BILL, WE BELIEVE: AN EQUITABLE CAP MUST NOT BE DEFINED BY A SNAPSHOT OF ONE YEAR'S OUTLAYS, BUT SHOULD INSTEAD PRESENT A FAIR REFLECTION DERIVED FROM RECENT HISTORY, AND SHOULD BE EXPRESSED IN CONSTANT DOLLARS.

OUR INDUSTRY DOES SUPPORT VIGOROUSLY THE CONCEPT OF USERS HAVING A SAY IN MANAGEMENT DECISIONS AFFECTING THE SYSTEM AND WE COMMEND YOU FOR THIS IMPORTANT INITIATIVE. THE BASIS OF OUR SUPPORT IS THAT SUCH PARTICIPATION WILL PROMOTE EFFICIENCY. BUT, LET US EXPOSE THE FALLACY THAT SOME FEW HAVE TRIED TO TO CANONIZE: MARKET FORCES ALONE WILL MAXIMIZE EFFICIENCY THROUGH PRIORITIZING WORK WHICH MUST BE DONE ON THE SYSTEM, IF USERS PAY MORE. AS FOR O&M, THERE IS FRAIL LINKAGE BETWEEN THE CONCEPT OF USER PAY, USER SAY AND THE WORK ESSENTIAL TO THE SYSTEM. AS FOR CAPITAL ASSET EXPENDITURES, AS

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PREVIOUSLY NOTED, NO OTHER BODY WILL SUPPLANT THE CONGRESS IN DETERMINING PRIORITIES AND EXPENDITURES. OTHERS PROPOSE, CONGRESS WILL DISPOSE.

WE DO BELIEVE, HOWEVER, THAT THE CONCEPT OF USERS PARTICIPATING IN SYSTEM MANAGEMENT DECISIONS SHOULD BE PRESERVED ON ITS MERITS. THE KEY WORD IS "PARTICIPATING", IN LIEU OF THE MISLEADING NOTION THAT USERS WILL CONTROL THESE DECISIONS. WE SUGGEST THE WAY TO DO THAT IS TO STRIVE FOR MORE FORMALITY AND TO UPGRADE THE STATURE OF THE BOARD. CONGRESS MIGHT CONSIDER THE BOARDS OF COMSAT AND USRA AS MODELS.

IN ADDITION TO MAKING RECOMMENDATIONS FOR SPENDING LEVELS, THIS BOARD, NOW MUCH MORE THAN SIMPLY AN ADVISORY BODY, WOULD BE GIVEN A MANDATE TO ADDRESS SEVERAL LONG-STANDING CONCERNS OF WATERWAY CARRIERS AND SHIPPERS:

- o AUTHORITY TO CONDUCT A COST ALLOCATION STUDY OF CORPS OF ENGINEERS INLAND WATERWAY EXPENDITURES TO DETERMINE WHAT PERCENTAGE OF THE CORPS' BUDGET SHOULD BE ALLOCATED TO EACH OF THE BENEFICIARIES;
- o AUTHORITY TO ADJUST FEES, EVERY 5 YEARS, TO AVOID DAMAGING SWINGS IN THESE FEES;
- o ASSESS THE IMPACT OF WATERWAY USER FEES ON NATIONAL TRANSPORTATION POLICY, CONDUCTING STUDIES TO MONITOR DIVERSION OF TRAFFIC FROM THE WATERWAY SYSTEM TO ALTERNATIVE MODES OF TRANSPORTATION. THE USERS BOARD WOULD BE AUTHORIZED TO REDUCE

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USER FEE LEVELS WHEN SIGNIFICANT DIVERSION HAS OCCURRED OR IS IMMINENT;

- o MAKE RECOMMENDATIONS TO IMPROVE THE EFFICIENCY OF THE SYSTEM.

IF THERE IS TO BE ANY SIGNIFICANT SHIFT IN THE HISTORIC PUBLIC POLICY OF THE FEDERAL GOVERNMENT HAVING RESPONSIBILITY FOR MANAGEMENT OF OUR INLAND WATERWAYS, THEN WE SUBMIT THERE SHOULD BE CHANGE ALL ROUND SO WHAT IS INTENDED WILL TAKE REAL FORM. CONGRESS CANNOT ASK THIS INDUSTRY TO PAY MORE UNDER THE GUISE OF PROMOTING EFFICIENCY, THEN TURN AROUND AND AUTHORIZE AND APPROPRIATE BEYOND WHAT A USERS BOARD WOULD RECOMMEND. SHOULD THAT HAPPEN, THE EXCESS COSTS SHOULD BE BORNE BY THE U.S. TREASURY. IN EFFECT, THERE MUST BE A CAP ON USER FEES.

THIS APPROACH WILL ASSURE REAL DISCIPLINE ON BOTH SIDES, PUBLIC AND PRIVATE.

WHILE CONTROVERSY HAS SWIRLED FOR YEARS AROUND THE ISSUE OF "FAIR SHARE" NO ONE DENIES THAT USERS SHOULD NOT PAY MORE THAN THEIR FAIR SHARE. THE CONTROVERSY IS OVER DEFINITION, NOT PRINCIPLE.

NOWHERE DOES S. 1739 ADDRESS THIS QUESTION. WE CAN ALL AGREE THAT THERE IS SOME THRESHOLD BEYOND WHICH THE BARGE INDUSTRY WOULD START TO PAY MORE THAN FAIR SHARE. INFLATION WILL INEXORABLY TAKE US TO THAT THRESHOLD. UNLESS THE CAP IS INDEXED AT THIS THRESHOLD, USERS WOULD BE ROBBED.

WHAT IS THE THRESHOLD...THAT HAS BEEN THE DILEMMA.

WHY, I'M NOT SURE. INDISPUTABLY, THE FEDERAL GOVERNMENT HAS THE WHEREWITHAL TO DEFINE WITH REASONABLE ACCURACY EACH BENFICIARY'S SHARE OF THE TOTAL COST. THE AMERICAN WATERWAYS OPERATORS, INC.

COMMISSIONED A NATIONALLY KNOWN PRIVATE CONSULTING FIRM TO MAKE SUCH A STUDY FOR A VERY MODEST SUM. WE ARE COMING TO THE FINAL PHASE OF THAT STUDY. WE, OF COURSE, WILL STAND FULLY BY ITS FINDINGS. AT THE SAME TIME, WE ARE MINDFUL THAT AN INDUSTRY-SPONSORED STUDY MIGHT CARRY SOME BURDEN OF CREDIBILITY. THAT IS NOT THE POINT. THE POINT IS, IF AWO CAN DO IT, SURELY THE FEDERAL GOVERNMENT CAN, AS WELL. TO BUTTRESS OUR CONCLUSION, WE NOTE THAT S. 1739 CONTEMPLATES A TWO YEAR STUDY TO DETERMINE PORT O&M FAIR SHARE.

WE SUGGEST THAT THE INLAND WATERWAY USERS BOARD BE AUTHORIZED AND DIRECTED TO CONDUCT A STUDY TO IDENTIFY THE VARIOUS BENEFICIARIES OF U.S. ARMY CORPS OF ENGINEERS INLAND WATERWAY EXPENDITURES AND TO DEVELOP A FORMULA TO ALLOCATE EACH BENEFICIARY'S SHARE OF EXPENDITURES. THIS STUDY SHOULD ENCOMPASS OVER A REPRESENTATIVE PERIOD OF TIME, A REPRESENTATIVE NUMBER OF CORPS DISTRICTS TO ASSURE CONSIDERATION OF A BROAD SPECTRUM OF TYPES OF FACILITIES WHICH ARE OPERATED AND MAINTAINED BY THE CORPS OF ENGINEERS. THIS STUDY SHOULD DETERMINE, FOR ALLOCATION PURPOSES, THE AMOUNT FOR EACH: COMMERCIAL NAVIGATION; RECREATION; WATER SUPPLY; POWER GENERATION; FLOOD CONTROL; ENVIRONMENTAL PROTECTION; ECONOMIC DEVELOPMENT AND NATIONAL DEFENSE. STUDY FINDINGS SHOULD DEFINE COMMERCIAL NAVIGATIONAL FEATURES AND COMPONENTS OF THE INLAND WATERWAY SYSTEM OF THE UNITED STATES.

THERE IS ALSO A CRITICAL NEED FOR AN APPROPRIATE USER FEE OR USER TAX MECHANISM. (AS SENATOR BOB PACKWOOD HAS STATED "ANYONE WHO CONSIDERS A WATERWAY FEE AS ANYTHING BUT A TAX. . . IS MISTAKEN.")

WE SUGGEST A TON-MILE FEE IN LIEU OF THE CURRENT WATERWAY FUEL TAX FOR INLAND TRANSPORT. HOWEVER, A WAY BILL TAX WOULD BE MORE

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APPROPRIATE FOR THE COASTAL TRADES. THE ADMINISTRATION OF WHATEVER TYPE FEE IS ADOPTED ULTIMATELY MUST BE IN A FORM WHICH WILL FACILITATE IT BEING PASSED THROUGH, WHEN THE ECONOMY IMPROVES AND PERMITS ANY PASS THROUGH. A MODEL FOR THIS SUGGESTION MIGHT BE THE EXCISE TAX ON AIRLINE TICKETS.

WHATEVER TAX, IF ANY, IS DECIDED BY CONGRESS, FAIR LEGISLATION MUST MANDATE A PHASE-IN SCHEDULE, NOT TO EXCEED A NON PUNITIVE FAIR INCREASE PER YEAR OVER CURRENT TAX LEVELS, ESTABLISHING NECESSARY STABILITY FOR THE TRANSPORTATION SYSTEM.

COMMITTEE STAFF HAS INDICATED THAT TITLE V IS SENSITIVE TO THE SEVERELY DEPRESSED STATE OF THE BARGE AND TOWING INDUSTRY AND, ACCORDINGLY, WOULD PHASE-IN GRADUALLY ANY NEW USER TAXES WHICH THE USERS BOARD SEES FIT TO IMPOSE. BUT, THE USERS BOARD IN THIS BILL HAS NO REAL AUTHORITY; THE PHASE-IN NOTION APPEARS TO BE NOTHING MORE THAN RHETORIC. AS REPORTED BY THE FULL COMMITTEE, THE LEGISLATION IMPOSES NO CONTROL OVER YEAR-TO-YEAR FLUCTUATIONS IN FUNDING REQUIREMENTS — AND THE ANNUAL VARIATIONS IN USER FEES — WHICH MAKE IT IMPOSSIBLE FOR BOTH THE CARRIER AND SHIPPER TO ASSESS COSTS FOR BUSINESS PLANNING PURPOSES.

ESTIMATES OF EXPENDITURE NEEDS AND NEW USER FEE ESTIMATES PROVIDED TO SEN. QUENTIN N. BURDICK BY THE CORPS OF ENGINEERS INDICATE THAT RAPID AND WIDELY FLUCTUATING INCREASES IN USER FEES ARE IMPLICIT IN TITLE V, COMMENCING SOON AFTER ENACTMENT. SUCH AN INCREASE WOULD SERVE NOT ONLY TO PREVENT ANY RECOVERY IN THE WATERWAYS INDUSTRY BUT ALSO WOULD DRIVE IT FURTHER DOWN, THUS REDUCING THE COMPETITIVE TRANSPORTATION CHOICES OF SHIPPERS, EFFECTIVELY PRECLUDING ANY REAL BUSINESS PLANNING BY BARGE COMPANIES. HOW CAN CARRIERS AND SHIPPERS

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BE EXPECTED TO SUPPORT LEGISLATION WHICH CONTEMPLATES USER TAXES WHICH WOULD SEVERELY HARM THE INDUSTRY, ALREADY IN A DEPRESSION?

ONE NEEDS TO REALLY UNDERSTAND THE CURRENT STATE OF THIS INDUSTRY. THE CONSULTING FIRM OF ARTHUR ANDERSON HAS CONDUCTED A STUDY OF THE 15 LARGEST INLAND BARGE COMPANIES IN THE U.S. THAT STUDY REVEALED THAT THE AGGREGATE OPERATING PROFIT AFTER INTEREST FOR THESE COMPANIES WAS \$133 MILLION ON \$1 BILLION OF REVENUE IN 1980. IN 1982, THOSE FIGURES HAD COLLAPSED TO \$30 MILLION IN LOSSES ON \$894 MILLION REVENUE. AND, THESE 15 COMPANIES PAID A TOTAL OF \$11 MILLION IN WATERWAY USER TAXES IN 1982...OVER ONE-THIRD OF THEIR COMBINED LOSSES. IT IS ESTIMATED THAT THESE SAME COMPANIES LOST \$51 MILLION IN 1983 ON ABOUT \$730 MILLION IN REVENUE. THE STEEPLY SLIDING TREND IS OBVIOUS. THIS BILL, IT MUST BE NOTED, CONTEMPLATES AS MUCH AS QUINTUPLING TAXES ON AN INDUSTRY ALREADY PROSTRATE.

ADHERING TO THE PRINCIPLE THAT USERS SHOULD PARTICIPATE IN MANAGEMENT DECISIONS, PROJECTS NOW IN PROGRESS, WHERE APPROPRIATIONS HAVE BEEN MADE BY THE CONGRESS, SHOULD BE GRANDFATHERED. THE HISTORY OF THE WATERWAYS SYSTEM MIGHT HAVE BEEN WRIT IN LESS BOLD TYPE HAD IT BEEN TRULY AUTHORED, EVEN THOUGH ONLY IN PART, BY SYSTEM USERS. WE REFER TO THE KIND OF USERS BOARD WE RECOMMEND.

WE MUST SEEK WAYS TO PROMOTE MORE EFFICIENCY IN THE NAVIGATION SYSTEM. THERE ARE SEGMENTS WHICH ARE UNDERUTILIZED, YET WHERE O&M EXPENDITURES ARE MADE FULL BORE. WE NEED TO DETERMINE THE APPROPRIATE LEVEL AND FORMULA TO DECIDE WHEN OPERATIONAL COSTS WILL BE REDUCED TO A LEVEL COMPATIBLE WITH INEFFICIENT USAGE. NO DOUBT, INSTANCES WILL ARISE IN THE FUTURE WHEN DECISIONS WOULD HAVE

TO BE MADE ABOUT THE FUTURE OF INFIRM SEGMENTS. THESE WOULD SEEM TO BE PROPER RESPONSIBILITIES FOR A USER BOARD STRUCTURED ALONG THE LINES WE PROPOSE.

IN THE CONTEXT OF THE TESTS WE PROPOSE, IS TITLE V EQUITABLE? WE THINK NOT FOR SEVERAL REASONS.

THE MOST DANGEROUS FEATURE...TO THE INDUSTRY AND ULTIMATELY THE AMERICAN CONSUMERS...OF THIS PROPOSED LEGISLATION IS THAT THE PRIVATE SECTOR WOULD BE TOTALLY AT RISK; THE FEDERAL GOVERNMENT WOULD HAVE FINAL SAY IN EXPENDITURES WITH NO FINANCIAL RISK. SHOULD THE FEDERAL GOVERNMENT GIVE BIRTH TO PROFLIGACY, THE BARGE INDUSTRY WOULD BE COMPELLED TO ADOPT AND SUPPORT FINANCIALLY THE CONSEQUENCES. IN THIS CONTEXT, CONSIDER WHAT WOULD HAPPEN TO THE INDUSTRY IN BAD ECONOMIC TIMES WHEN THERE ARE MAJOR CAPITAL EXPENDITURES TAKING PLACE. THE TRAFFIC WOULD GO DOWN AND USER TAXES WOULD GO UP, IN A SELF DEFEATING DOWNWARD SPIRAL.

WE ALSO SUBMIT THAT TITLE V ADDRESS IN A CONSTRUCTIVE FASHION, THE NEED FOR AN EQUITABLE ALLOCATION FORMULA WHICH ADDRESSES CAPITAL OUTLAYS FOR MAJOR MODERNIZATION, REHABILITATION, EXPANSION AND REPAIR OF FACILITIES. THERE IS NO MORE REASON A FORMULA FOR CAPITAL EXPENDITURES SHOULD ELUDE US THAN IT SHOULD FOR O&M. IN FACT, SOME ANALOGIES WITH O&M BEG TO BE RECOGNIZED. IF COMMERCIAL USERS BENEFIT SOME PERCENTAGE FROM O&M, WHY MORE (OR LESS) FOR CAPITAL ASSET EXPENDITURES? WOULD THERE BE SOME FORM OF LOCKS AND DAM SYSTEMS WERE IT NOT FOR BARGES AND TOWBOATS? CLEARLY, THE ANSWER IS YES.

AWAITING THE DEVELOPMENT OF PROPER COST ALLOCATION, OTHER CHALLENGES CAN STILL BE ADDRESSED. FAIR RECOVERY OF SYSTEM

IMPROVEMENT COSTS MUST BE PACED BY THE ACTUAL RECEIPT OF BENEFITS FROM THESE IMPROVEMENTS. OTHERWISE, BENEFICIARIES WOULD BE SEVERELY PENALIZED. BOTH ECONOMIC ANALYSIS AND EXPERIENCE SHOW THAT THESE BENEFITS ARE ALWAYS VERY LOW IN THE EARLY YEARS AND RISE GRADUALLY. WHATEVER THE FAIR SHARE, IT MUST NOT BE CONFISCATED UNTIL THE USER IS RECEIVING FULL SYSTEM USAGE BENEFITS. WE SUGGEST, FOR THESE PURPOSES, THAT SERVICE LIFE FOR REHABILITATED PROJECTS AND NEW CONSTRUCTION PROJECTS SHOULD BE DEFINED AS 50 YEARS.

IN THE LONG TERM, WOULD THE PROPOSED LEGISLATION RESPECT AND REAFFIRM THE PROPER ROLE IN ITS RELATIONSHIP WITH THE FEDERAL GOVERNMENT, THE PRINCIPLE OF GOVERNMENT BALANCE FOR THE VARIOUS MODES? CERTAINLY NOT IN ITS PRESENT FORM. BUT, THE BASIC CONCEPTS, WITH IMPROVEMENTS WE SUGGEST, DO OFFER THE PROMISE THAT THAT COULD BE ACHIEVED.

THE OPPORTUNITY SHOULD NOT BE LOST TO REMIND OURSELVES THAT THESE DELIBERATIONS, AND OTHERS LIKE THEM, IN THE LAST ANALYSIS ARE ABOUT MATTERS WHICH ULTIMATELY WILL AFFECT THE AMERICAN PEOPLE. THAT FACT MUST NOT BE LOST IN THE SMOKE OF THE OCCASIONAL COMPETITIVE SKIRMISHES AMONG THE MODES. IT DOES NOT SERVE THE PUBLIC INTEREST IF ANY MODE IS GIVEN COMPETITIVE ADVANTAGE. A HEALTHY AND VIGOROUS BARGE INDUSTRY...REVENUE ADEQUACY FOR OUR INDUSTRY, IF YOU WILL...HELPS TO UNDERGIRD WHAT IS BEST FOR THE AMERICAN CONSUMER: COMPETITION. USING THE RAILROAD INDUSTRY'S OWN FIGURE, COMPETITION FROM THE BARGE INDUSTRY REDUCES RAIL REVENUES BY \$1 BILLION ANNUALLY. WITHOUT BARGE COMPETITION, THE AMERICAN PUBLIC WOULD HAVE TO ANTE UP ANOTHER \$1 BILLION A YEAR FOR THE INCREASED TRANSPORTATION COSTS.

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UNTIL A LONG-TERM SOLUTION IS DEVELOPED, WE RECOMMEND THIS COMMITTEE ADOPT THE FUNDING MECHANISM CONTAINED IN TITLE II OF H.R. 3678, THE HOUSE WATER RESOURCES OMNIBUS BILL.

WITH RESPECT TO THE SEVEN INLAND NAVIGATION PROJECTS CONSIDERED AS "CRITICALLY NEEDED" - SECOND CHAMBER AT LOCK AND DAM 26, UPPER MISSISSIPPI RIVER; GALLIPOLIS LOCKS, OHIO RIVER; BONNEVILLE LOCK, COLUMBIA RIVER; LOCKS 7 AND 8, MONONGAHELA RIVER; WINFIELD LOCK, KANAWHA RIVER; AND OLIVER LOCK, BLACK WARRIOR RIVER - THE HOUSE BILL PROPOSES TO UTILIZE THE INLAND WATERWAY TRUST FUND TO FINANCE, OVER SEVEN YEARS, ONE-THIRD OF THE COST OF THESE PROJECTS. FEDERAL APPROPRIATIONS WOULD PAY FOR THE REMAINING TWO-THIRDS OF CONSTRUCTION COSTS.

AWO SUPPORTS THIS PROPOSAL.

SUCH A PLAN INCLUDES A SIGNIFICANT USER CONTRIBUTION; PASSAGE WOULD ALLOW IMPORTANT DEVELOPMENT TO BEGIN, WHILE PROVIDING AN OPPORTUNITY TO ADDRESS LONG-TERM CONCERNS, SUCH AS COST ALLOCATION, HEALTHY COMPETITION BETWEEN TRANSPORT MODES, AND, FINALLY, SOME ECONOMIC RECOVERY FOR OUR INDUSTRY.

TITLE X

THE DOMESTIC COASTWISE SHALLOW-DRAFT FLEET CONTINUES TO EXPERIENCE FINANCIAL HARDSHIP; AT THE SAME TIME, ATTACKS ON THE JONES ACT - WHICH RESERVES DOMESTIC COMMERCE TO U.S.-FLAG VESSELS, CONSTRUCTED IN AND DOCUMENTED UNDER THE LAWS OF THE U.S. AND OWNED AND CREWED BY U.S. CITIZENS - SERVE TO THREATEN FURTHER THE DECLINE OF THE U.S. MERCHANT MARINE. THEREFORE, IT IS ALSO CRITICAL THAT THE PUBLIC POLICY TESTS DISCUSSED EARLIER BE APPLIED VIGOROUSLY AS THIS

SUBCOMMITTEE CONSIDERS PORT DEVELOPMENT LEGISLATION.

TWO MEMBER COMPANIES OPERATE ON THE EAST, WEST AND GULF COASTS, AS WELL AS ON THE INLAND WATERWAY SYSTEM. THESE COMPANIES AFFECTED BY TITLE X UTILIZE SHALLOW-DRAFT VESSELS TRANSPORTING SUCH CARGOES AS COAL, CHEMICALS AND PETROLEUM PRODUCTS.

THIS TITLE WOULD ESTABLISH A PRESIDENTIAL COMMISSION TO RESOLVE THE CONTROVERSIAL QUESTION OF WHAT THE NON-FEDERAL SHARE OF OPERATION AND MAINTENANCE COSTS SHOULD BE AND THE MECHANISM FOR PAYMENT OF THIS NON-FEDERAL SHARE. IT IS OUR BELIEF THAT THIS COMMISSION, IN STRUCTURE AND IN MANDATE, SHOULD PARALLEL THE INLAND WATERWAY USERS BOARD WE PROPOSE. AT A MINIMUM, TITLE X MUST DELINEATE CERTAIN PARAMETERS FOR THE PROPOSED COMMISSION IN ORDER TO MEET THE TESTS SET FORTH EARLIER. WE RECOMMEND:

(1) DEVELOPMENT AND MAINTENANCE OF A SYSTEM OF INTEGRATED PORTS IS IN THE NATIONAL INTEREST AND, AS SUCH, THE FEDERAL GOVERNMENT HAS THE LEAD ROLE IN THE OPERATION AND MAINTENANCE OF THE EXISTING NETWORK OF U.S. DEEP DRAFT PORTS AND WATERWAYS ADEQUATE TO ENHANCE FOREIGN AND DOMESTIC COMMERCE, PROMOTE ECONOMIC STABILITY, AND PROVIDE FOR NATIONAL SECURITY.

IN ITS DELIBERATIONS, THE FIRST TASK MUST BE TO ASCERTAIN WHETHER OR NOT USER TAXES ARE IN THE PUBLIC INTEREST, WE BELIEVE, NOT TO PRESUME THEY ARE AS APPARENTLY THIS LEGISLATION CONTEMPLATES. BILLIONS OF DOLLARS GENERATED IN CUSTOMS RECEIPTS THROUGH PORT USAGE IS A FAIR ALTERNATIVE TO IMPOSING ADDITIONAL TAXES. - THE COMMISSION SHOULD AVAIL ITSELF OF THE RECENT DEPARTMENT OF COMMERCE STUDY WHICH SHOWS RECOVERY FOR PORT O&M COSTS WOULD RESULT IN A NET LOSS TO THE U.S. TREASURY.

(2) MORE SPECIFIC REQUIREMENTS ARE NEEDED TO PREVENT THE ADMINISTRATIVE NIGHTMARE WHEREIN PORTS WOULD DETERMINE "DIRECT BENEFICIARY" AS WELL AS THE FORM AND METHOD OF TAXING;

(3) ANY RECOMMENDED USER TAX MECHANISM TO RECOVER OPERATION AND MAINTENANCE COSTS FOR PRESENTLY AUTHORIZED CHANNEL DEPTHS MUST BE UNIFORM FOR ALL PORTS, NATIONWIDE;

(4) ANY USER TAX MECHANISM SHOULD BE STRUCTURED TO PREVENT "MULTIPLE-CHARGING" OF CARGOES LOADED AND UNLOADED FROM A VESSEL WITHIN THE SAME PORT, AND CARGO TRANSPORTED FROM ONE PORT TO ANOTHER;

(5) ANY COST RECOVERY MUST NOT DO HARM TO THE U.S. FOREIGN TRADE, ALREADY SUFFERING UNDER A RECORD SETTING BALANCE OF PAYMENTS DEFICIT;

(6) THE COMPETITIVE BALANCE OF OUR PRESENT NETWORK OF U.S. PORTS IS AN IMPORTANT CONSIDERATION. IF THE COMMISSION DOES DETERMINE THAT NON-FEDERAL INTERESTS BE REQUIRED TO SHARE IN THE FUNDING OF PORT OPERATION AND MAINTENANCE, THE RECOMMENDED TAX MECHANISM MUST NOT CAUSE DAMAGING DISLOCATION, DIVERSION OR LOSS OF CARGO FROM/BETWEEN U.S. PORTS.

(7) THE FEDERAL GOVERNMENT MUST FAIRLY AND ACCURATELY IDENTIFY THE ACTUAL BENEFICIARIES OF PORT PROJECTS, BE THEY WATERBORNE OR SHORESIDE. CERTAINLY, CARRIERS ARE NOT THE SOLE BENEFICIARIES. FURTHERMORE, IT IS NOT SHALLOW DRAFT WATERWAY OPERATORS WHICH BENEFIT FROM CONSTRUCTION OF SUPERPORTS. THESE PORTS WOULD ONLY BE REQUIRED FOR THE VERY LARGE COAL CARRIERS, OFTEN FOREIGN-OWNED AND FOREIGN-FLAGGED.

SECTION 1006(b) WOULD REQUIRE DIRECT BENEFICIARIES TO BEAR 80% OF

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ANY FEES ESTABLISHED TO RECOVER THE COST OF HARBOR MAINTENANCE OR IMPROVEMENT. WE RECOMMEND THAT DIRECT BENEFICIARIES BE REQUIRED TO BEAR THE ENTIRE SHARE OF FEES FOR NEW CONSTRUCTION. WHILE 20% - IN THEORY - IS A RELATIVELY SMALL AMOUNT FOR THE "INDIRECT" BENEFICIARIES TO CONTRIBUTE, SUCH AN AMOUNT IS FAR FROM INSIGNIFICANT. THE DOMESTIC MERCHANT FLEET WOULD BE REQUIRED TO INCUR, WE BELIEVE, VERY SIGNIFICANT COSTS FROM USER TAXES PLUS ADMINISTRATIVE BURDENS WHILE RECEIVING LITTLE OR NO BENEFIT.

CONSIDER A \$400 MILLION HARBOR DEEPENING PROJECT - INDIRECT BENEFICIARIES WOULD BE REQUIRED TO PAY \$80 MILLION, YET THESE VESSELS ARE NEITHER SEEKING NOR DO THEY REQUIRE THE DEEPER DRAFT.

THEREFORE, WE RECOMMEND SECTION 1006(b) EXEMPT ALL BUT DIRECT BENEFICIARIES, FROM PAYING USER FEES FOR PORT IMPROVEMENTS. THIS WILL HELP SOMEWHAT TO CREATE A "MARKETPLACE" INCENTIVE TO CONSTRUCT COST-EFFECTIVE SUPERPORTS.

CONCLUSION

THE FEDERAL GOVERNMENT PROVIDES FEDERAL AID TO ALL MODES OF TRANSPORTATION AS PART OF NATIONAL TRANSPORTATION POLICY. A VIABLE, HEALTHY TRANSPORTATION SYSTEM IS CLEARLY IN THE NATIONAL INTEREST IN THAT IT BENEFITS ALL OUR CITIZENS. SHOULD CONGRESS DETERMINE THAT IT IS NO LONGER IN THE NATIONAL INTEREST TO PROVIDE ASSISTANCE TO ONE MODE, THEN THERE MUST BE EQUAL, ACROSS-THE-BOARD REDUCTIONS OF FEDERAL AID OR "SUBSIDIES" TO ALL MODES. IT IS DISCRIMINATORY - AND CONTRARY TO THE PUBLIC INTEREST - TO REDUCE OR ELIMINATE ASSISTANCE FOR ONE MODE ONLY.

THE CUMULATIVE IMPACT ON THE U.S. EXPORT MARKET OF WATERWAY USER TAXES - INLAND AND PORT - HAS ALSO BEEN OVERLOOKED IN THE NAME

OF BALANCING THE BUDGET. I WOULD LIKE TO QUOTE FROM A RECENT SPEECH DELIVERED TO THE PROPELLER CLUB OF THE PORT OF NEW YORK BY REP. MARIO BIAGGI, CHAIRMAN OF THE HOUSE MERCHANT MARINE SUBCOMMITTEE, TITLED "U.S. MARITIME POLICY: THE MYTHS AND THE REALITY." HIS REMARKS REGARDING TRADE CONSIDERATIONS AND MARITIME POLICY ARE PARTICULARLY APPROPRIATE IN THE USER FEE DEBATE. BIAGGI STATES:

"IN THE CASE OF THE UNITED STATES, THE REALITY IS THAT U.S. COAL COMMANDS A PREMIUM PRICE ON WORLD MARKETS — ONLY BY VIRTUE OF ITS RELATIVE SECURITY OF SUPPLY. THE UNITED STATES, THEREFORE, REMAINS A MARGINAL SUPPLIER TO OUR PRINCIPAL TRADING PARTNERS. U.S. GRAIN EXPORTS, ON THE OTHER HAND — WHILE MAINTAINING A DOMINANT GLOBAL MARKET SHARE — ARE, IN FACT, TRADED IN A HIGHLY COMPETITIVE MARKET, MEASURED IN PENNIES PER BUSHEL. THE REALITY IS THAT ANY DISTORTION IN EITHER TRADE WOULD INEVITABLY BE REFLECTED IN REDUCED EXPORTS OF THOSE COMMODITIES.

"THE MYTH, THEREFORE, IS THAT THE MARITIME INDUSTRY CAN SHIFT THE BURDEN OF A NONCOMPETITIVE COST STRUCTURE TO FOREIGN BUYERS. THE REALITY IS THAT SUCH A POLICY WOULD — WITHOUT ANY COMPENSATING ACTIONS — ONLY FURTHER EXACERBATE A GROWING TRADE DEFICIT FOR THE UNITED STATES."

WE, TOO, ARE CONCERNED WITH FEDERAL DEFICIT LEVELS, BUT URGE CONGRESS TO CONSIDER THE WISDOM OF WATERWAY USER TAXES AND COST RECOVERY IN THE CONTEXT OF NATIONAL TRANSPORTATION POLICY AND NOT AS A WAY TO CHIP AWAY AT THE DEFICIT. IT IS A SHORT-SIGHTED POLICY WHICH WOULD CONDONE INADEQUATE FEDERAL FUNDING OF OUR DEEP-DRAFT AND INLAND PORT AND WATERWAY SYSTEM FOR THE SOLE PURPOSE OF FORCING NON-FEDERAL INTERESTS TO ACCEPT MORE USER TAXES.

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IT IS WAY PAST TIME TO BEGIN WORK ON THE SYSTEM; CONGRESS' OWN WATCHDOG ARM, THE GENERAL ACCOUNTING OFFICE, REPORTED THIS MONTH THAT IT TAKES IN EXCESS OF 21 YEARS FROM THE TIME A SURVEY IS AUTHORIZED UNTIL CONSTRUCTION BEGINS.

IT WILL DO SCARRING DAMAGE TO THE COUNTRY'S ECONOMY TO CONTINUE TO HOLD ESSENTIAL NAVIGATION PROJECTS HOSTAGE TO THE IMPOSITION OF ADDITIONAL USER TAXES. TO DO SO WILL INDEED CONTINUE TO HARM OUR INDUSTRY, IN AN EXPONENTIAL WAY, AS THIS NATIONAL TREASURE CONTINUES TO AGE. BUT, IN THE LONG TERM, IT IS THE NATION WHICH WILL SUFFER THE GREAT LOSSES WHICH ALWAYS ACCOMPANY DIMINISHED COMPETITION.

STATEMENT
OF
S. O. OGDEN
PRESIDENT, SUNEDCO COAL COMPANY

AND

MARK R. JOSEPH
PRESIDENT, ANKER ENERGY CORPORATION

ON BEHALF OF
NATIONAL COAL ASSOCIATION AND
COAL EXPORTERS ASSOCIATION OF U.S.
ON THOSE ASPECTS OF S. 1739,
THE WATER RESOURCES DEVELOPMENT ACT OF 1983
THAT AFFECT COMMERCIAL NAVIGATION

BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

JANUARY 24, 1984
WASHINGTON, D.C.

Mr. Chairman, my name is S. O. Ogden. I am president of Sunedco Coal Company and serve as chairman of the transportation committee of the National Coal Association. I am joined by my colleague, Mark R. Joseph, who is president of Anker Energy Corporation and also serves as chairman of NCA's affiliate, the Coal Exporters Association of the U.S. We are appearing before the subcommittee on behalf of NCA which represents coal producers, coal sellers, and other organizations associated with America's coal industry, and CEA which represents NCA member companies that are engaged in exporting America's coal to various world markets.

Mr. Chairman, efficient and reasonably priced transportation services are vital for full utilization of America's coal in the U.S. and in other countries. Water transportation is a critical component of coal delivery systems. Safe and efficient navigation on our nation's inland waterways is essential for coal shipments to electric utilities, industrial coal users, and ports and high capacity, modern ports and harbors are required to transship coal for export in large bulk cargo vessels operating on the high seas.

Therefore, Mr. Chairman, we appreciate your leadership in moving forward with legislation which will authorize urgently needed improvements on our inland waterways system and at deep draft ports. Our testimony is focused on Title V, inland navigation, and on Title X, ports, of S. 1739, the Water Resources Development Act of 1983, as reported by the Senate Committee on Environment and Public Works in November 1983. Mr. Chairman, I will present testimony on Title V, inland navigation, and Mr. Joseph will offer testimony on Title X, ports.

S. 1739 - Title V - Inland Navigation

With regard to inland navigation as covered in Title V of S. 1739, we hold the view that:

- First and foremost, the nation must not neglect work needed to continue the role of the inland waterways system as an essential component of the total freight transportation network, providing an efficient avenue for the movement of bulk commodities, including coal, vital to our economy and security.
- Lack of capital improvement project authorizations and appropriations for seven years is seriously threatening the ability of the inland waterways system to enable safe and efficient movement of towboats and barges under current and projected traffic demands.
- The Federal Government has had a long-standing responsibility to assure that the inland waterways system is operated and maintained and that justified improvements are made in a timely manner so that the system remains sound and regularly enhances our nation's economy and security by virtue of its intrinsic value in allowing efficient bulk freight movements.
- With regard to financing of capital improvements, the monies collected and held in trust in the Inland Waterways Trust Fund established under the Inland Waterways Revenue Act of 1978 should not be diverted from the purposes set forth in the Act, namely for construction and rehabilitation expenditures for navigation on inland and intracoastal waterways.
- Should Congress decide that new waterway user charges, over and above the schedule of fuel taxes in effect under the 1978 Act, will be imposed on waterways traffic, any increases above the amount charged under present law should be: (a) utilized to help cover navigation costs only; (b) phased in over a period of years; (c) applied systemwide as a fuel tax; and (d) tied to accelerated improvements needed at critical points.
- The approach taken in S. 1739 to financing work on the inland waterways system should be changed; we believe it is not appropriate to empower the Secretary of the Army to set new user fees, even with input from a new users board which surely can have no more than an advisory role.

For many decades inland waterways have been utilized heavily for safe, efficient and reliable transportation of coal and other bulk commodities essential to our nation's commerce and industry and national security. Five waterways — the Ohio, Monongahela, Black Warrior, Kanawha, and Mississippi Rivers — carry up to 150 million tons of coal yearly. One in every five tons of coal produced annually is carried on inland waterways for part of the trip from mines to electric utility and industrial plants and to ports

engaged in coastal and international coal trade.

It is reasonable to anticipate that waterborne coal traffic will grow beyond today's level so that as much as one in every four tons of coal produced annually is carried on the inland waterway system by the 1990s. Thus, additional coal traffic demand is expected on the waterways both as a result of efficiency characteristics associated with water movements and by virtue of projected growth in coal production.

We need efficient inland waterways freight transportation services to enable full and complete utilization of America's coal. NCA forecasts annual coal production in the U.S. to increase from 834 million tons in 1982 to 940 million tons by 1990 and 1.12 billion tons by 1995. Eastern coal production is forecast to increase annually at 1.5 percent and Western coal production is forecast to increase annually at 3.8 percent. In 1982 Eastern coal's share of total coal production was 67 percent, and by 1995 Eastern coal's share is forecast at about 60 percent. The Mississippi River System and the Gulf Coast waterways will be utilized heavily to meet this added coal traffic demand, as production increases in the East and in the West.

Coal traffic demand on inland waterways also is likely to expand in view of rapidly rising rail rates for coal traffic, a factor which makes water transportation more attractive than ever before. Rail rates now account for 25 to 50 percent of coal's total delivered price in the U.S. today, and for some coal shipments as much as 70 percent. Thus, we must take meaningful steps to hold down transportation costs. From 1976 to 1981, at the same time that coal prices at the mine declined by 18 percent, railroad rates charged coal traffic increased by 40 percent, in constant dollars. Water transportation services are an important avenue for holding down coal transport rates due to efficiencies inherent in such movements and the forces of competition water carriers provide in relationship to rail carrier services.

A seven-year lapse in authorization of inland waterways improvements, coupled with age, limited size, and deteriorating conditions of several locks, has caused unsafe conditions and has produced some serious traffic delays and congestion, reducing the efficiency of waterways transportation. Obviously, these conditions are deterrents to full and complete utilization of the inland waterways system, resulting in grave consequences due to lessened competitiveness of water carriers with rail carriers in the future, if we do not act now to upgrade certain locks on the waterways system.

The average age of the 184 principal locks and dam installations is now 40 years, and some have been in service more than 70 years. Without needed replacement and rehabilitation of inadequate and deteriorated locks and dam installations, preliminary findings of the National Waterways Study indicate that projected traffic at a number of installations will reach or exceed their practical capacity in the 1980s and the 1990s.

Some important funding that should be utilized in a timely manner to upgrade the system as intended under provisions of the Inland Waterways Revenue Act of 1978 is available in the Inland Waterways Trust Fund. The Trust Fund has receipts of about \$100 million on hand. In 10 years, not counting interest, the fund should have income totaling \$850 million, according to Corps of Engineers estimates.

There have been no authorizations or appropriations from the trust fund as yet. Revenues held in the trust fund, we believe, should be utilized with no further delay for critical navigation projects on inland waterways. Needs are known, and projects have been justified; now engineering, design and construction should be placed on an expedited schedule so that the benefits attributable to critical improvement projects are not lost because of inability to use the trust fund in an effective manner.

Mr. Chairman, we believe early action is warranted to authorize construction of replacement structures and improved capacity for navigation at six locks on the inland waterways system:

- Gallipolis Locks on the Ohio River in West Virginia and Ohio;
- Gray's Landing (Lock No. 7) and Point Marion (Lock No. 8) on the Monongahela River in Pennsylvania;
- Oliver Lock on the Black Warrior River in Alabama;
- Winfield Lock on the Kanawha River in West Virginia;
- addition of a second lock chamber at Lock and Dam No. 26 on the Mississippi River at Alton, Illinois in Missouri and Illinois.

These six installations of locks on the Ohio, Monongahela, Black Warrior, Kanawha and Mississippi Rivers are key locations controlling the overall efficiency of the inland waterways system. According to Corps of Engineers data, in 1980 85 million tons of coal moved on the Ohio River, 29 million tons on the Monongahela River, 10 million tons on the Black Warrior River, 9 million tons on the Kanawha River, and 7 million tons on the Upper Mississippi River.

Mr. Chairman, we note that Title V of S. 1739 will authorize replacement of the Gallipolis Locks (\$333 million), and Locks 7 and 8 on the Monongahela River (\$160 million) and construction of a second lock chamber at Lock 26 on the Mississippi River (\$245 million). We commend the Environment and Public Works Committee for including these key improvement project authorizations in the bill. Their combined cost of \$650 million is well below the total income projected for the trust fund from today through the late 1980s and early 1990s when such construction would be completed.

Further, we note that according to the National Waterways Study performed by the Corps of Engineers, the Oliver Locks on the Black Warrior River are identified as primary constraints causing congestion on the inland waterways system. We urge the committee to give this lock replacement project early consideration for construction authorization which is estimated to require an additional \$175 million.

Turning to the issue of operation and maintenance costs, we believe that it is not desirable or appropriate to "freeze" Federal expenditures for construction and rehabilitation work and for operation and maintenance under a single annual "cap" over a 14-year period beginning in fiscal year 1986. Further, we believe that having a single "cap" on Federal obligations would incorrectly commingle trust fund and general revenues for obligations dealing with construction and rehabilitation as well as for operation and maintenance purposes.

We believe, Mr. Chairman, that S. 1739 should be modified to the effect that:

"nothing in this Act shall change the purposes for which amounts in the Inland Waterways Trust Fund shall be expended, as provided in the Inland Waterways Revenue Act of 1978."

In this way it will be assured that monies held in trust under present law for construction and rehabilitation expenditures are not diverted to obligations for operation and maintenance work. The intent of Congress in 1978 was clear, and the need to fund critical improvement projects is well documented.

Mr. Chairman, another point which concerns us is the proposed delegation of authority to the Secretary of the Army to impose and collect new waterway user charges on commercial traffic. Granted, the bill also would establish a new "users board" to develop recommendations on such actions; however, we believe that at best the board can only be considered as an advisory unit with no real control over future decisions on charging commercial traffic additional user charges. It would appear that decisions on

user charges, whether taxes or fees, must rest directly with the Congress in the first instance, and the legislative process should be exercised fully to enable all parties of interest, public and private, to participate in the process.

It is our position, Mr. Chairman, that any increases in user charges imposed on commercial traffic should help cover navigation costs only should be phased in over a period of years, should be applied as a system-wide fuel tax, and should be tied to accelerated construction of critical inland waterway projects.

S. 1739 - Title X - Ports and Harbors

Title X, S. 1739 addresses the need to maintain and improve the Nation's coastal ports and harbors. The commercial need to dredge many of our coastal ports to deeper depths has been thoroughly reviewed at hearings held by this Committee throughout 1983 including the statement presented by the National Coal Association and the Coal Exporters Association on June 27, 1983.

The Committee is to be congratulated for recognizing that deeper channels at our coastal ports are necessary if the United States is to maintain its position in world commerce and that a way must be found to fund the costs of both constructing and maintaining deeper channels at our ports. Title X, S. 1739 will not accomplish this goal as would the proposals S. 865 and S. 970 which have been brought before the committee and discussed in hearings throughout 1983.

A. The NCA Position

As we stated in our testimony before this Committee in June, 1983, National Coal Association was among the first to acknowledge that, despite demonstrated need, our coastal ports would not be dredged without agreement on the part of the port and the user to pay at least part of the projects costs. Almost two years ago, the NCA Board adopted a position which was supportive of legislation authorizing dredging projects to be paid at least in part by local (port and user) interests. This position was reaffirmed by our Board of Directors in June, 1983.

Specifically, NCA supports legislation that would:

- authorize ports to dredge channels to deeper depths wherever such a dredging project is economically justified;
- provide that the costs of dredging work be shared by the federal government and port authority (and by implication the port user), with all funds required advanced by the federal government and with payback to begin after construction is completed;
- give the port authority the flexibility to start and complete a dredging project without further federal concurrence and involvement if the port authority agrees to pay 100 percent of construction and incremental O&M costs;
- expedite the environmental review and permitting necessary before a port and harbor dredging project can proceed;
- authorize the local port authority to collect user fees from the user to cover the local share of project costs, but give the port authority wide discretion on the way project costs are to be funded and user fees are to be levied;
- if necessary, impose a user fee on all port traffic to cover a minimal share of the cost of annual operation and maintenance (O&M). This fee should be applied to all traffic in our coastal ports and should be uniformly levied on the value of the cargo.

NCA does not support the inclusion of Great Lakes ports or traffic on the Great Lakes in any port improvement or port user fee bill.

B. Title X, S. 1739 Should Be Replaced by S. 865.

Section 1001 creates a National Commission on Harbor Maintenance to prepare recommendations on the level of recovery of harbor maintenance costs and on the way those costs should be recovered. A cap is placed on spending for O&M until Congress acts on the Commission's recommendations. The Conference report suggests that cost

recovery for operations and maintenance charges have been an area of sharp controversy and that there is need to delay the decision while the Commission performs a complete economic analysis of the affects of an O&M user fee on port traffic.

Cost recovery for operation and maintenance at coastal ports has been controversial. But an acceptable compromise has already been suggested in S. 865.

S. 865 would impose a nationwide user fee on the value of the cargo to fund 40% of the annual costs of operation and maintenance at coastal ports. The fee, which would be imposed on all export and import traffic as well as coastwise traffic, would be phased in over a three year period and would be capped at a maximum 0.06% of the dollar value of the cargo.

This positive approach based on cargo value, recognizes:

- that the Federal Government has a vital and a continuing role and interest in maintaining this nation's port system;
- that if a local share of O&M costs are necessary, a uniform fee spread across all commodities and all traffic is the most equitable approach and can be imposed with the least problems and traffic pattern disruptions;
- that bulk commodities are extremely sensitive to market prices and can bear only a small additional charge without affecting their competitive position in the world market;
- allows the actual fee to vary with the market price.

Sections 1003 and 1004 establishes policy for the construction and maintenance of general cargo harbors (harbors with depths of 45 feet or less) and deep draft harbors (greater than 45 foot depths). Specifically the federal government would assume 70 percent of costs of improving general cargo harbors, but none of the costs of deepening harbors below the 45 foot mark. (As the Conference Report states however, a port wishing to wait for federal approval and appropriation of funds, may obtain 70% of the cost of

deepening from current depth to 45 feet from the federal government, although the federal government would pay none of the costs of going deeper).

We would suggest that this proposed policy ignores completely the benefits which accrue to the national economy from deep draft ports. An increase in trade occasioned by the ability to load a deep draft vessel benefits a far wider segment than the port area, shipper or customer.

The methodology proposed by the Hatfield, Byrd, Warner Bill, S. 865, recognizes that benefits of harbor improvements accrue to both the port and shipper and to the general economy as a whole.

S. 865 suggests a sliding scale, the deeper the depth the greater the local share to a maximum of 75 percent. This type of formula helps retain the current competitive structure of our port system. The burden bearing 100 percent of costs of improvements are high enough that few if any ports would be dredged.

Sections 1003 and 1004 further provides that all local costs of construction of new projects (30% for general cargo, 100% for deep draft) must be advanced by the port itself during the period of construction. The federal government will not issue a guarantee for any bond or loan on which interest is exempt from federal taxation.

These funding requirements make the costs of construction prohibitively expensive to the port and will act as a significant deterrent to any port improvement project.

Few ports, localities or states, are in a position to raise the extremely large amounts required for a port improvement project during the period of construction, even with a payment guarantee. Further, it would be impossible to begin repayment of these loans during the construction period. You cannot require today's traffic which cannot take advantage of the cost savings offered by the improvement project to pay in advance

for the project. Port dredging legislation should include assurance that the federal government will advance 100 percent of the funds needed to complete the project with repayment to start only after completion.

Section 1006 directs the ports to collect 80 percent of the costs of dredging and maintaining deeper channel depths from the traffic deriving benefits from the improvement. While we agree, and our position so states, that there should be a direct link between user fee and benefit, that link should be established by the port after full public hearing. The language of S. 1739 is too specific and gives the port no latitude to meet the commercial situation faced by that port.

In the early years of a project, it is most likely that deep draft traffic would be insufficient to bear 80 percent of the cost burden and the resultant fees high enough to more than offset any economic gains occasioned by use of deeper vessels.

The Committee's notice calling these hearings asked two questions:

I. What incentive is there to construct the more cost-effective super port projects, absent Section 1004?

Our analysis shows that Section 1004 would deter, not encourage construction of deep draft ports. The fees necessary under Title X, S. 1739 would be more than double those required by S. 865 removing all incentives to use deep draft vessels.

Further, as pointed out above, it is unlikely that the ports could raise all the funds necessary to complete a deep draft harbor with help of the federal government - no work would be done.

2. What is the fairest way to allocate the non-federal costs among users? It is impossible to legislate from the federal level the "fairest" way to allocate non-federal costs. Each port is faced with a different mix of commercial traffic with a different and unique competitive situation. Each port should be given the latitude to determine allocation of non-federal costs through decision of its port authority with advise and imput from the public hearing process.

In summary, we believe that Title X, S. 1739 will not bring about its desired goal—port and harbor improvements. We would recommend substitution of S. 865 in its entirety.

Mr. Chairman, this completes our testimony. NCA and CEA appreciate this opportunity to present our views on Title V and on Title X of S. 1739. We will be glad to answer any questions regarding our testimony now, or in writing after the hearing.

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TITLES V AND X OF THE WATER RESOURCES DEVELOPMENT ACT OF 1983

WEDNESDAY, JANUARY 25, 1984

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room SD-406, Dirksen Senate Office Building, Hon. James Abdnor (chairman of the subcommittee) presiding.

Present: Senators Abdnor, Domenici, Randolph, and Moynihan.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABDNOR. The meeting will come to order. The Subcommittee on Water Resources of the Senate Committee on Environment and Public Works is now in order.

This meeting was announced on November 17 of last year. I said at the time we reported S. 1739 to the Senate that we would hold additional hearings for those who wanted to participate and be heard on sections V and X of S. 1739. Yesterday, we had a hearing principally on title V, and it looks like today we will be discussing mostly title X of this legislation, which addresses cost sharing for and the authorization of deep draft navigation projects.

It also establishes a Presidential commission to recommend to the Congress the extent to which user fees should be imposed to recover port maintenance costs and the method by which to recover the recommended level of cost recovery. The Commission is established to aid the Congress in formulating a consensus on this question. At the time the committee was reporting this legislation, I agreed to hold these 2 days of hearings at the start of this session, as I said, to allow specific public comments to be made on title V and title X of S. 1739.

I felt it was important to allow all those affected by these provisions to have the opportunity to make specific constructive proposals for offering or amending the committee bill.

The purpose of today's hearing is to afford an opportunity to those who have requested it to testify on title X keeping in mind that these provisions are compromise proposals which the committee developed in light of the many hearings and legislative proposals addressing cost sharing and user fees which have been reviewed over the past 3 years, not just a month or two.

I would like to say that the written statements, which have been submitted to the committee, will be made a part of the record in their entirety. To allow each of the many witnesses who are scheduled to testify here today, I would request that they confine themselves to a brief opening, and make a presentation of the specific proposals which they have.

I want the limited time we have today to be focused on these specific, precise proposals. I guess all we have to do is look at the witness list to see that I have quite a task before me in order to finish by the time the Senate convenes. We are happy to hold this hearing. We know we want everyone to have an opportunity to express themselves. We have tried to be as fair as humanly possible on this, and we know that it is hard to come up with a bill that satisfies everyone. Our opening witnesses this morning are two of my close friends and colleagues in the Senate, Senator Tribble and Senator Warner.

You would think, Senator Warner, was part of this committee the way he has worked so hard on this legislation. I appreciate all he has done. He has made a lot of good proposals. It is just that a consensus is hard to come by.

Governor Robb is accompanying Senators Warner and Tribble and we welcome all three of these distinguished gentlemen to our hearing today.

Senator Warner, you must be the captain of this team; you have been with it long.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. I thank you, Mr. Chairman and members of the committee. Indeed, it is a team from Virginia. The Virginia congressional delegation has worked in complete cooperation with the Governor and the members of his cabinet and others to formulate the viewpoints that we will express today on behalf of Virginia.

My distinguished colleague, Mr. Tribble, and I are particularly grateful that our Governor took the time, during perhaps the busiest part of his entire 4-year term, this particular legislative session, to come up here from Richmond to join us this morning. I think that is a manifestation of the strength and feeling of the Virginia State government as well as the Virginia congressional delegation.

I shall be no more than 6 minutes, Mr. Chairman. Then I will defer to the Governor and Mr. Tribble to speak.

Mr. Chairman, I commend you and the other members of the subcommittee for holding these hearings on S. 1739's title X, The National Harbors Improvement Act. A modern harbor system is vitally important to the United States, and we appreciate the committee's diligence in pursuing legislation to accomplish this goal.

Unfortunately, Mr. Chairman, I find that title X is ill equipped to achieve our mutual goals of harbor improvements and, therefore, unacceptable—bluntly, Mr. Chairman, unacceptable in its present form. In my judgment, the Senate will not pass the pending bill without major modifications. Therefore, it is my hope that this subcommittee will consider suggestions of the Virginia wit-

nesses and that others will make and revise the bill and forward a new bill to the floor.

Last year, I joined with Senators Hatfield, Byrd, Tribble, Thurmond, and Mattingly in introducing S. 865, The Deep Draft Navigation Act. While not perfect, S. 865 continues to represent the best alternative to assure the continued maintenance and improvement of our national harbor system.

The bill, if I may say, Mr. Chairman, was fabricated in a way to try and reflect equity among all the interests. That is the difficult goal to achieve.

Title X, however, of S. 1739 has a number of provisions that we find objectionable. Senator Tribble and I will call to the committee's attention the three major problems that we find particularly objectionable:

First, the lack of any Federal participation in funding projects deeper than 45 feet; second, the severe restrictions on how local ports may structure user fees; and third, the last of a uniform Federal funding formula for harbor improvements at equal depths.

Title X sets an arbitrary breaking point of 45 feet for improvement projects by providing 70 percent Federal funding for projects less than 45 feet and no Federal funding for, I repeat, no Federal funding for improvements deeper than 45 feet.

A modern harbor system is in the strong national interest of the United States. It means jobs for unemployed Americans, a favorable balance of trade, fulfillment of our national security commitments, a stable source of energy for our allies and a renewal of American competitiveness in international trade.

From throughout the heartlands of the United States, goods flow to our seaports, which are the lifeblood of our national economy. The economic benefits of modern ports do not stop at the coasts. They continue inland to consumers throughout the United States. Port improvements at all depths are not only worthy of Federal financial support but truly a responsibility of the Federal Government.

Title X should be amended to adopt a sliding scale of cost sharing along the lines of S. 865, in which the Federal interest in harbor improvements is always retained but it lessens as the depth increases.

The international shipping community is moving toward huge bulk carriers which can take advantage of the substantial transportation savings they offer. If the United States is to remain competitive in international trade, some American ports must be improved to accommodate ships requiring drafts of more than 45 feet.

The charge has been made that deeper ports are for the sole benefit of the coal industry. However, grain and other bulk commodities are already realizing the benefits of the huge bulk carriers. I am convinced that other shippers will take advantage of these channels when they are available.

Mr. Chairman, in fairness to many other witnesses, I will defer now to the Governor and to my colleague and then perhaps I could have some time remaining to finish several other points. But I took the admonition of the chairman at heart.

I, of course, assume that the balance of my statement will be included as if stated in your record.

Senator ABDNOR. Thank you, and let me say, Senator Warner, your delegation here today probably has as great an interest in this bill as anyone we know. We want to hear from you. When the Governor has taken time from the schedule he has to come here indicates the interest and importance he was for this bill.

We are very grateful that you will give us the opportunity to hear your proposals and your objections. Thank you for coming, and I will turn it over to you, Governor.

**STATEMENT OF HON. CHARLES ROBB, GOVERNOR,
COMMONWEALTH OF VIRGINIA**

Governor ROBB. Thank you very much, Mr. Chairman and, in absentia, other members of the committee.

To begin with, I would like to thank you for the opportunity to join with Senators Warner and Tribble to present Virginia's position on title X of the Water Resources Development Act. I recognize, and I certainly compliment the subcommittee on the many, many hours it has labored to address a myriad of competing interests which are affected by the comprehensive ports legislation.

My purpose in appearing before you this morning is twofold: First, I would like to convey that my colleagues and I clearly understand the fiscal environment in which this committee and Congress must operate. Under traditional circumstances, Virginia would feel wholly justified in requesting from Congress full Federal funding of our Hampton Roads port deepening project.

Hampton Roads, as I think you and all the other subcommittee members know, is a national resource which contributes heavily to America's efforts to improve our balance of trade. The port is also a vital link in America's Naval defense system.

Admittedly, these are not traditional times. Over the past 2 years, I have repeatedly indicated in congressional testimony that Virginia is willing to share in the costs of the Hampton Roads project through the imposition of user charges.

Virginia has also accepted the challenge and is well along in her efforts to fund, with the private sector, a significant upgrading of our port's landside capacity to receive, store, and load bulk and general cargo commodities.

Mr. Chairman, please let me state as clearly as I can that if America is to compete in the world export coal market over the next decade and the next century, Hampton Roads must be the focal point, not an afterthought, of this Nation's port development efforts. Stated simply, Hampton Roads is the conduit through which about three-quarters of the coal which leaves this country every year is exported, a volume some four times greater than any of our sister ports.

More importantly, we will have, at the end of this decade, the landside capacity to double our historical output at absolutely no cost to the Federal Government.

What we cannot do alone is also bear the complete costs required to dredge our harbor to accommodate the super coal carriers which will dominate the world coal export market in the future. This brings me to the second point that I would like to raise for your consideration: Virginia has no choice but to oppose the funding

provisions of title X of this act, because they effectively preclude the realization of the Hampton Roads port deepening project.

Specifically, the bill provides highly preferential funding for port improvements to general cargo terminals; in other words, those described in the act as having channels of less than 45 feet, as Senator Warner has indicated.

Your committee report concludes that this is necessary because such ports, and I quote, "will, for many years into the future, be the primary source of commerce between the United States and other nations."

We certainly agree with this particular funding criterion, but we would respectfully suggest that the Port of Hampton Roads clearly meets this test, perhaps better than many general cargo ports which would, under the bill, receive 70 percent Federal funding, while Hampton Roads receives nothing.

We are also very concerned with the provisions of title X which require that 80 percent of any user fees must be collected from the direct beneficiaries of such charges.

This would appear to advocate a marketplace test for funding dredging projects, while not permitting the same test to dictate harbor fee structures.

In our view, it should be the local sponsors' responsibility to develop a fee structure which best suits the competitive needs of a given port.

Finally, we must take strong exception to the provisions of title X which pertain to the Baltimore Harbor improvement project. The 50-foot project would receive 70 percent Federal support but would in no way conform to the bill's definition of a general cargo harbor project.

Let me make clear that Virginia does not oppose the deepening of Baltimore Harbor or any other harbor, but we do oppose unequal treatment, which would significantly subsidize the improvement of that harbor at the direct expense of the competitive position of Hampton Roads. We certainly stand willing to compete with Baltimore and, indeed, with any port, but ask simply as a matter of equity that such competition be on an equal basis.

In summary, Mr. Chairman, we stand ready to support cost sharing with the Federal Government to fund the Hampton Roads port deepening project. We stand ready to impose user fees to provide our portion of necessary non-Federal funds. We stand ready to work with this committee to provide any information or analysis which may be of assistance in your deliberations.

We would only ask, in return, that you amend this legislation to permit Hampton Roads to continue to serve our country as its most efficient bulk export facility.

Mr. Chairman, I thank you very much for the opportunity to present the Virginia position to you and the members of your subcommittee.

Senator ABDNOR. Thank you for your fine comments.

Senator Tribble, do you want to add anything?

STATEMENT OF HON. PAUL S. TRIBLE, JR., U.S. SENATOR FROM
THE COMMONWEALTH OF VIRGINIA

Senator TRIBLE. Absolutely, Mr. Chairman. I can't let this opportunity pass by without a comment or two.

I am pleased to join my colleague, John Warner, and our Governor Chuck Robb, in addressing the subject of port development in the context of the National Harbors Improvement Act of 1983. Mr. Chairman, I, too, want to thank you for your special courtesy in scheduling these additional 2 days of hearings. I want to applaud your leadership in this matter. It is easier for Virginians to champion the cause of port development than those that hail from the midland areas of this country. So, your leadership is noted and deeply appreciated by all of us.

Senator Warner and I have long advocated the need for a system of permanent port financing. States and local port authorities must be permitted to proceed with deep dredging and other improvement projects essential to the economic well-being of this Nation.

The failure to devise a system for financing port development has resulted in the United States falling seriously behind our trading allies in providing the type of bulk, deep draft facilities so necessary today to international trade. Improved bulk facilities mean lower transportation costs and a more competitive posture for U.S. exports. Indeed, had we embarked on an aggressive national import development program 3 years ago, we would have a much brighter trade picture today.

An equally important reason for the expeditious deepening and improving of strategic ports is the vital role they play in our commitment to a free and prosperous world and to our commitment to a modern, 600-ship Navy.

About 125 ships, or 23 percent of the total U.S. Navy, are homeported in the Port of Hampton Roads. The timely deployment of our ships and troops and the maintenance of adequate logistical support can be assured only by modern, well-maintained, fully developed ports.

We are extremely concerned that title X of this bill as reported will preclude comprehensive port construction for a number of reasons. Senator Warner has spoken about the funding problems inherent in the bill.

I would like to point out the special and inequitable treatment accorded to the Port of Baltimore. Singling out Baltimore from all other deep draft projects for 70 percent Federal funding gives that port a competitive advantage over other ports, but most particularly, over Hampton Roads.

In my view, any proposal which deviates from standard cost sharing requirements for all ports of the same depth is grossly unfair. This requirement is identified very early on in the port development debate as a critical element in a workable, permanent system of port financing. And such a system is essential, an absolute precondition to building support for positive action by Congress.

Let me quote from the 1981 testimony of the American Association of Port Authorities before the House Merchant Marine and Fisheries Committee:

Prospects for a nonuniform Federal role . . . are alarming . . . This would lead to costly distortions in the flow of international commerce and eventually adversely impact upon public port facilities built by taxpayers of port communities in a good-faith reliance upon the Federal role.

For these and other reasons, we urge the subcommittee to amend the legislation, to delete section 1008, paragraph 2 of title X.

In conclusion, let me say this: The current impasse in navigation is a Federal responsibility. The Federal role in port development has traditionally been to assure access to waterborne commerce, to maximize trade opportunities, and to meet our defense requirements.

S. 1739 as written will fail to achieve these objectives, in my judgment, and will only insure that the current congressional impasse continues. I, therefore, respectfully urge the subcommittee and its distinguished chairman to consider the specific suggestions made by this panel here today.

Senator ABDNOR. Thank you, gentlemen.

Let me say this: It must have been fun to be the chairman of this subcommittee 10 or 15 years ago when dollars were not a part of the problem and you just went ahead and spent it. But this entire bill was designed, I guess, in a whole new world of water development.

Yesterday I, with some Western Senators, attended a meeting with the new Secretary of the Interior about the direction in which this was going, and it is my opinion that the Committee on Energy and Natural Resources will be coming up with something, and I think it is going to be along the lines of what we are doing, that the Government cannot pick up the tab on the costs of all the water projects. I wish we could. I attended a session yesterday where one of the main subjects of the meeting was the subject of deficits, and we are probably going to hear a lot about it this week once the President delivers his state of the Union message tonight.

Senator WARNER, you said that you have to think of more than just coal, and I agree. Yesterday I had farm and other groups associated with agriculture lined up here. Almost to the man, they got into the subject of title X to the degree that they thought it was grossly unfair that they were paying for deepening harbors that they didn't need or were not going to use.

Senator WARNER. Mr. Chairman, last April, the *Jade Phoenix*, a ship, sailed out of Tacoma, Wash., drawing 57 feet of water and filled with 110,000 tons of grain for Egypt. The loading of this huge grain collier points to the emerging trend. I can go on citing examples.

Senator ABDNOR. The point is, gentlemen, we are talking about getting a consensus of opinion. There are a lot of ports in these United States, and I would love to get them all together in one agreement. That would be fine, but we have some very strong opposition to S. 865. As a matter of fact, Senator, I think you attended one of the meetings with me, and the minority leader's office and some of the other gentlemen deeply involved with this subject point blank told you, "It ain't going to happen." They feel they are being taken advantage of. We are trying to be as generous as we possibly can.

The other thing we are confronted with—and I just want to tell you where we are coming from on this whole thing—is that we have always been a little bit guilty of parochialism, “I want it for my territory.” I think you will agree with me; we certainly don’t need a deepwater port all the way around the coastlines of our country.

I am concerned that your bill opens that up to a real possibility. I am afraid your proposal encourages a lot of ports to build, and they are going to build very slowly, because this money is coming principally from the Government rather than users fee.

There is a need for a few deepwater ports, not dozens of them.

I made a trip to Rotterdam, not only to see how they constructed their port and how they paid for it, but to talk to coal buyers over there to see how much coal they really want.

I went to France where they buy a lot of coal, and they are putting in deepwater ports but how much coal are they going to buy from us? There is no doubt in my mind that we are going to sell coal, but I don’t see, from what I have learned and what I have heard that we are going to find any great increase of coal exports.

It will be steady and maybe it will continue to grow some, but we don’t need ports in every area. We have had requests and we have had witnesses from all along the deepwater ports. They love these ports and want the Federal Government to pay for most of them.

On the other hand, you go to the value service on the tonnage, and you have got a lot of ports that are very, very upset about this. I can understand those that have mostly heavy cargo, coal, grain, and I should be concerned about that because I come from grain country, I suppose.

But at the same time, some other Members of this Congress think it is extremely unfair to take valuable cargo and make them pay all the costs.

So that is where we are coming from. If we can find a consensus, we are going to be very interested. That is why we are holding this meeting. Don’t think my mind is made up.

Senator WARNER. Mr. Chairman, we have a strong disagreement on the fundamentals that Uncle Sam is no longer going to pay for all this. We are willing to pay for our share. What Virginia is asking is that the Congress establish a framework which puts the ports on an equal footing everywhere in the United States.

Senator ABDNOR. Isn’t it possible that some ports will be getting no benefits at all and, perhaps, paying anyway? Our bill takes care of all the maintenance. I think that is pretty generous. That is something unusual.

I will tell you this much: Our inland water people would be delighted, because it is more indexing for you, and all I heard was, “Why don’t you index that cap?” If we index that cap, there won’t be anything for maintenance on ports.

There are just so many dollars around here.

Senator WARNER. Mr. Chairman, you very thoughtfully mentioned that I have been working on this for a long time, and indeed, I have, throughout my career in the Senate. The bill that we submitted to this committee was forced from a consensus of small ports and large ports. It was largely the language of the bill

that is fabricated by those port authority trade associations that have spent their lifetimes in this particular area.

We drew on their corporate knowledge and expertise, then put together a matrix of Senators in a bipartisan way to present to this committee what we thought was a piece of legislation that would be adopted by the Senate, and I still think it will be adopted.

Senator ABDNOR. I know it, Senator, and I know the time and the research you have done on this; I know the people you have talked to. I have my problems, and you have yours. Each State is different, but I will tell you, before we go into this and make any final decisions, I want you to come in here and sit down alone with us where we can talk about this position.

Let me give you a fact sheet I had made up. We are talking about the unfairness, and I am not trying to cause any problems with Baltimore versus Hampton Roads in any way. But let me say this: It was 10 years go that Baltimore was authorized, long before I got to the Senate, and had not a certain Congressman objected, that would have been built with every dollar and it would have been done. It has been authorized.

But as unfair as they may seem to you, I am going to ask that we give you these three copies, and I am going to ask that you look at them. While it starts out unfairly, I think you will see in the final analysis it ends up fair. This is the thing that I want to sit down and discuss with you. I know just looking at the figures for the first time it seems unfair. Why don't you just take those and then come back and talk to us.

Senator WARNER. We recognize you have a long list of witnesses. I think the Governor has a viewpoint with which he would like to conclude.

Senator ABDNOR. All right, Governor, certainly.

Governor ROBB. Mr. Chairman, thank you. I know that Senators Warner and Tribble will indeed be very pleased to meet with you again on this specific information that you have just presented to us. Let me make two points, if I may, and then I will close. No. 1, you talk about the fact that we may not need an unlimited number of deepwater ports, and I think all of us would agree that we don't need to have every nook and cranny converted to a 55-foot-deep or deeper channel so that we could encourage unlimited draft exports.

Right now, Hampton Roads is in a position of one of those two or three on anyone's list, so it is clearly not a matter of passing interest on our part.

The fact that Hampton Roads currently exports a disproportionate share of the nation's coal, and again, that is the principal commodity that we are concerned about, so what we don't want to see happen is to see Hampton Roads treated unfairly. And the equity of your argument is a very compelling argument, Mr. Chairman, I must tell you.

The other element, in addition to the direct head-to-head competition with Baltimore—and Baltimore is our principal competition. That is our reason, not wanting to see the Federal Government give them an advantage in the competitive structure that simply would not be also accorded to Hampton Roads. But more importantly, what, in effect, this bill would do would be to give an advantage to all of the ports up to 45 feet, giving every one an opportuni-

ty with the 70-percent share on that score, without according the same funding formula or percentage, because of an arbitrary cutoff between 45 and below and 45 and above.

We agree wholeheartedly with the concept of equity. Whatever percentage, whatever Federal and State local user fee match that the Congress in its wisdom comes up with, as long as it is applied equitably to all of the existing ports, will meet the basic fairness test that I think Senator Warner is concerned about and that we are concerned about.

What we don't want to do is see all of the other ports given an advantage that places them in a competitive advantage over the Port of Hampton Roads, and certainly, in head-to-head competition, it would be very unfair to take one of the two principal competitors and give that a Federal advantage that the other one would not have.

Senator ABDNOR. Thank you, Governor. You make a very valid point, I am sure. I guess that is what Senator Warner has been telling me all this time. Surely, there is some areas where we are going to be able to get together. If you have any questions about this, send them over.

Senator WARNER. We will do that, Mr. Chairman, and on behalf of Senator Mattingly, may I submit his statement?

Senator ABDNOR. Yes.

Senator WARNER. I understand Senator Robert Byrd and Senator Thurmond likewise are submitting statements supporting the general thesis that we have espoused today, one of equity among the ports.

Senator ABDNOR. I want to say one thing: I thought we had a great goal a year ago. It was port specific, and I applied the formula. It was a fact no one refuted.

I still think it is a far better bill than what I have here, a fairer bill. But I had static from all over and that was the end of that.

We are very fortunate that Senator Randolph has arrived. He is a gentleman that I heavily rely on; he is a master and a pro of this committee.

Senator TRIBLE. We are delighted to see him here, because he ships his coal through Hampton Roads.

Senator WARNER. I was going to say, we depend very heavily on the senior Senator from West Virginia and what he provides through the Port of Hampton Roads. He is our best customer.

Senator RANDOLPH. Thank you very much. It is very good to see the Governor and the two Senators from the Commonwealth of Virginia present. It is not wrong for me to say that we were once the same State.

Through the good judgment of President Abraham Lincoln, he proclaimed West Virginia an entity unto itself. That never caused any difficulty between the two States, as we know. On several occasions, with deference to the two Senators who now serve, we have had two Senators who have served the Commonwealth of Virginia in this body who were actually natives of West Virginia and it doesn't hurt to mention a situation of that kind.

Let's take, for example, Harry Byrd, and Awillus Robertson, for example, both of them West Virginians. But we are delighted that

there is the mutual concern of not only these two States, but also of those States from whence coal comes.

I know, Governor Robb, that I must be forgiven, but I am so glad your father was born in my hometown in West Virginia.

Gentlemen, what are your projections now? What must be done to take care of the coal shipments of the future, and are those shipments going to be available for sale? What is the condition of the world market? What is the picture as you, in the Commonwealth of Virginia, see the future?

Senator WARNER. Senator, no one can predict that future. I visited the Middle East 2 weeks ago, and we all know, regrettably, that it is in a state of turmoil. If that source of energy were lost to the world, indeed, it would be America's coal that would first come to the rescue of that loss of energy.

We have got to equip our ports to accommodate that type of surge. Furthermore, the important thing is, if we develop our ports, we will be able not just to deal with the spot market in coal, but to develop long-term contracts on transportation rates from the mine mouth to the rail system to the port system to the final consumer; we can be competitive in the world. The missing link at the present time is sufficient depth in the channels to utilize the supercolliers of the future.

Senator RANDOLPH. I remember once, many years ago, we made an effort to do a deepening and a widening at one time. I remember frankly, I was criticized from West Virginia for spending money at Hampton Roads or Newport News, and they said, "Why are you doing that?" I said, "Well, it is very easy to understand why we are doing that, because the products of West Virginia, coal, of course, would move through those areas," and the people took a different view of it, but they wondered why I wanted to spend money at Hampton Roads.

There certainly is feeling within our committee as to the need for this. It seems, as the chairman has said, that when we begin to zero in on one area other areas of the country seem to get upset. That causes difficulty within the committee. We have had many people and many States who have come and pleaded with us to take action.

Senator WARNER. We have got to lead; we have got to lead, Mr. Chairman. This is a national asset, Hampton Roads.

Senator RANDOLPH. Yes.

Senator WARNER. In Virginia we try to take good care of Hampton Roads, but it belongs to everybody.

Senator RANDOLPH. That is right; yes. I appreciate it, Mr. Chairman. I wish I could have been here earlier.

What is your feeling, Mr. Chairman, as to how and when and what we can do? Do you have anything to add to the record?

Senator ABDNOR. Yes. Just as I concluded my remarks, I asked Senator Warner and Senator Tribble and certainly we would welcome Governor Robb, but I know his other business has to take priority, to come and sit with us.

What we do here I will also have to sell to the rest of the members of the committee, but I think there are some places where we can get together. Everything has give and take, and that is the way

some of the best legislation that has ever come out of Congress has been settled.

Certainly, I think that that can be done. I want to get it to the floor just as quick as we can. We have a year to go, and we have a long battle after we are successful getting it through the Senate. The House has a different version. If we can come out together and support something, we are a long way down the road.

Senator TRIBLE. Mr. Chairman, we thank you for the opportunity of being here today, and we look forward to working with you.

Senator ABDNOR. Senator, do you have anything to add?

Senator RANDOLPH. I want to say hello to Chuck.

[Discussion held off the record.]

Senator ABDNOR. I would like to ask Mr. Charles Lehman to come up now.

I am happy to have you with us today, Mr. Lehman. I know you have some strong views, and we are here to hear from you. You may proceed. I have a list of witnesses and the hour is short, so we will move right along.

**STATEMENT OF CHARLES F. LEHMAN, VICE PRESIDENT,
AMERICAN COMMERCIAL BARGE LINE CO.**

Mr. LEHMAN. Thank you, Senator Abdnor.

For the record, my name is Charles Lehman. I am vice president of American Commercial Barge Line Co. based in Jeffersonville, Ind. Since my testimony is over 30 pages, I will summarize but would ask that the entire statement and appendix be included in the record.

We appreciate this opportunity to testify today. My statement will outline an approach of full cost recovery from the owners and operators who provide transportation service on the inland waterways.

The plan will have a significant impact on the cost of inland freight movements; however, since navigation projects take a generation from conception to final completion, we believe we must look beyond the present distressed industry economic conditions to develop a program in order to prevent deterioration of a vital system of transportation. We cannot wait until a crisis situation arises or simply endure the lengthy, unproduction delays and inefficient operations which we know will occur before starting the process of rebuilding aged and deteriorating structures. A proper solution to this contentious issue must be found.

Our full statement addresses the question of equity and fairness in taxation. It creates a base wherein the users will pay for the benefits they receive. It furnishes an economic test which we consider necessary in full cost recovery.

Finally, it establishes a commission which would advise, prioritize needs and act as an overseer of the system for what inland waterway operators require and for which they are willing to pay.

The present system of public dollars invested in public works projects in relation to public benefits received has served this Nation well.

All modes of transportation have received Federal assistance in various forms. If Congress intends to recover the Federal program

of aid to one mode, it must consider recovering the aid given to all other modes in whatever form or else give offsetting credits to the mode where cost recovery is sought.

This will insure a more neutral Government policy as regards transportation and allow the marketplace to more fairly decide which mode may best serve the shippers' needs.

When addressing cost recovery, the key ingredient of a program must be to establish the base from which costs are recovered. There must be an assignment of present-day benefits for each use of corps projects. The usage of every project matures with age and is distinctly different from the original base of planning when a narrow scope of authorized purposes was the only criteria used in establishing a positive cost-benefit ratio which would allow the project to be built.

A recent study contracted by the American Waterway Operators, as was indicated yesterday, has projected a conservative preliminary estimate of allocation. This study is in its final phase of examining management practices. Overall, when the study evaluated some of the major segments of the interior river and canal system, it indicated less than 50 percent of the navigation budget expenditures benefit commercial marine users. The final accounting phase of the study is now in progress, and as Mr. Farrell testified yesterday, should be available within a couple of months, and it will show additional benefits which should be for the account of others rather than commercial operators.

Senator ABDNOR. Mr. Lehman, are you going to have any preliminary copies? I would like to see this.

Mr. LEHMAN. Senator, I think you can contact the American Waterway Operators; it is their study. We are not a member of that organization.

Senator ABDNOR. When you make an effort like that to present some figures, we would like to see it. But at the same time we can't let it go on and stop this legislation from going ahead.

Mr. LEHMAN. Right. I agree with you, sir.

When Congress is legislating a cost recovery regime, the system must first be defined. The U.S. commercial inland waterways fall into four distinct regions which have negligible traffic moving between them. These regions are: The Great Lakes; Atlantic coast; the Gulf Intracoastal Waterway and the waters flowing into it, which would, of course, include the Mississippi River and its tributaries and finally, the Pacific coast area.

Each region would be a separate cost or cost recovery center, based on Corps of Engineers navigation expenditures spent within the region and the ton-miles of traffic generated within that region. Each region would be further divided into logical river sections or groups.

Segment definition could change with changing conditions. Suggested segments for critical implementation are offered initially in my full statement, such as the Ohio River, the Upper Mississippi above Ohio, the Illinois River, et cetera.

As regards to cost recovery plans, any tax imposed on waterway users must be considered carefully. The present fuel tax has no relationship to the recovery of costs on the inland waterways. It is simply an excise tax levied as a revenue raiser.

It is proposed that O&M and capital costs allocated to commercial navigation be recovered through a charge calculated on each ton-mile of freight moved.

Newly constructed or developing waterways would have to be treated in a different manner than those considered as mature.

Since all so-called navigation systems are in reality projects authorized for regional economic development enhancement, commercial navigation interests can only pay for its portion of that capacity utilized in the development.

For example, we do not have a great deal of these type waterways in my estimation at the present time, but the Kaskaskia, McClellan-Kerr; the Tenn-Tom; the Red River systems would be considered developing waterways.

O&M costs for commercial navigation would be based on expenses incurred within the entire region. Annual costs would be running 5-year averages to cushion wide swings in costs which might occur in any one or two given years.

Annual regional O&M costs, divided by the annual regional ton-miles, equate to the O&M ton-mile recovery charge for that region.

To encourage judicious financial management, each segment's revenue contribution for cost recovery would be calculated annually. The actual cost of operating a segment per ton-mile would be measured against the average cost per ton-mile for the entire region.

If a mature segment generated less than 20 percent of its O&M allocated expenditures over a 5-year period cost reduction methods must be considered by the corps. If reductions were not successful, commercial navigation operations would be considered for discontinuance. But if individual users desire, they may contract with the Government to continue operations on a segment, or a portion of it, for a specific fee. The regional users, however, would not be required to subsidize an unprofitable segment.

Capital costs of locks and dams must also be fairly allocated to the beneficiaries. Major rehabilitation capital projects should be considered to have a 20-year life expectancy, and new structures should be amortized over at least a 50-year period. No capital costs should be recovered until the work is completed and available for usage.

To achieve productive use of capital expenditures, the recovery of capital costs would be shared. Fifty percent would be paid for by all users of the regional system as each capital asset within that region would be an asset to the entire region. However, to provide the economic test, 50 percent would be paid by the users of the segment containing the project since the asset is really of primary benefit to that area.

Charges would be developed from the ton-miles for each segment as well as from the total ton-miles of the region. Annual amortized capital costs would be divided by the ton-miles of the region to arrive at the regional costs and by ton-miles of the segment to arrive at its portion of the divided costs.

We would establish a waterway transportation users commission to be set up for each region. The concept of cost recovery is to insure users pay for the waterway system, so the makeup of the commission should consist of those that do pay and be proportional

to the amount that they pay. All users of the waterway region would vote for commission candidates. Voting rights would be based on the number of ton-miles moved.

The commission would make recommendations to Congress as to operations and funding levels for each waterway. They would recommend new start initiatives, planning and design initiatives, include recommendations with each district, division and chief's reports, and would oversee any other things that the Congress may so desire.

Major change in Federal policy should not be abrupt. It must evolve over a period of years. Any new cost-recovery plan of waterway expenditures should be phased in over a 25-year period, as it would be completely disruptive of existing investment and trade patterns to make immediate total cost recovery for the navigation system.

Upon the imposition of the ton-mile charge, the present fuel excise tax under Public Law 95-502 must be rescinded. It is suggested that the phase-in start with a ton-mile rate equal to the present level of fuel tax.

Since navigation projects presently have a lengthy process of authorization and appropriations, it takes a generation to complete work on a given structure from original planning to final construction. We believe that if the users are willing to pay, there must be an expedited method to allow the decisionmaking procedure to go forward in a more timely manner. Under the methodology developed in this statement, all individual and system projects which are presently underway would be grandfathered.

Additionally, at a minimum, we would suggest that the second lock and dam at dam 26 near Alton, Ill., Gallipolis lock, Oliver lock, and the Bonneville lock be authorized for construction. However, the costs of these projects would be subject to the formulas which we have outlined.

Other projects which have cleared the Chief of Engineers' office favorably should be authorized in concept, subject to a review for alternatives and prioritization by the regional water transportation user commission.

We believe that the program outlined in my full statement addresses all the major problems associated with cost recovery and navigation system expenses. If the plan is adopted, it should put the cost recovery issue behind us for the foreseeable future and allow us to focus our energies on the job of building, maintaining, and operating the inland navigation system of this country as economically and as efficiently as we possibly can.

That concludes my summary, Mr. Chairman.

Senator ABDNOR. Thank you, Mr. Lehman. That is a very fine statement. I know you have a very detailed statement that is going to go into the record and we will look at.

We have been joined by Senator Domenici, and we are happy to have him here, because he has had a deep and long interest in this. I just want to remind my two colleagues that if you look over the witness list today, you will see that we have a long way to go, so we have to keep our questions very limited.

As a matter of fact, I am going to let the other two gentlemen do the questioning, but we do have to keep it short. I just want to say

this, Mr. Lehman: I want to commend you for your statement and your proposal; it is a good one, and it has a lot of merit. It is far different, I guess, than what we have in our legislation, but it is not too late to review it and see what could be done.

I would say that for the 3 years we have been on this, I am happy to get a proposal. We could probably hold more hearings and spend lots of time, but we do not have that luxury. I do thank and commend you.

I want the staff to feel free to call on you, and we may submit questions to everyone here, because we are not going to have the time to get into the details of this program today.

But we thank you. Senator DOMENICI.

Senator DOMENICI. Thank you, Mr. Chairman. I won't take a lot of time. I commend you, again, for holding the hearings and for your genuine interest in this subject. I am sure it is not an easy one for you. From my standpoint, you are concerned about Mr. Lehman coming forward with a proposal this late in the game. I hope you understand that in this whole area of user fees for the inland waterway system, you are not the first to be concerned or frustrated, so everybody will understand; this has had a long history. I guess FDR started talking about the fact that this system ought to pay some of its own freight so the transportation system would be equalized. After 3 years of legislation, we got a fuel tax.

I want to commend you for coming forth on behalf of the American Commercial Barge Line with at least a proposal that recognizes that at some point in history, the commercial barges ought to pay a significant portion of the taxpayer cost for the system. I do commend you for it. I appreciate it.

Could I ask you a couple of questions? Is there a difference in the effect of the fuel tax in a ton-mile charge?

Mr. LEHMAN. Yes, sir. We believe there is quite a difference. No. 1, it is very difficult, if not impossible, to associate your costing mechanisms with a fuel tax. When we go out to bid freight movements, a fuel tax is just a tax on operations. We can't associate it in our costing to decide whether we are making a good business judgment in how we bid contracts and how we price out freight movements.

The ton-mile charge would be associated directly with each movement.

Senator DOMENICI. Directly with each movement?

Mr. LEHMAN. With each freight movement, yes, sir.

Senator DOMENICI. Would you mean that there isn't a direct relationship between an engine turning and using up fuel and your being able to figure out how much you ought to bid?

Mr. LEHMAN. Well, you stop and you pick up barges. You might pick up a whole tow in one area; you might pick up a barge here, drop a barge there.

Senator DOMENICI. That does not in any way change the amount of fuel you use?

Mr. LEHMAN. No. You use the same amount of fuel, but the problem is associating it with the piece of freight that you are moving. It is impossible to do. People talk about the fuel tax being an easy tax to administer. Really it is not. I would venture to say that I don't think the Government is collecting all the fuel tax due it.

Second, I would say that every operator at present has to report every movement that he makes, the tons that he moves, and the ton-miles that he moves from point A to point B to the Corps of Engineers. Every movement is required by law to be reported.

It would be simple enough to require each operator to fill out an IRS form, which would be cross-checked by the corps through a computer the same way that does the bank in reporting to the IRS. If you don't report the interest that you might have received from a savings account, you will get a letter from the IRS saying, "You forgot something on your last submission."

Senator DOMENICI. Why did you use 26 years as a phase-in? Isn't that a bit long?

Mr. LEHMAN. I guess that is in the eyes of the beholder, Senator. We would like to pay it in over as long a period as possible so that the effect of it would be less of an impact. I basically phase it in because of all the infrastructure that has been built, such as grain elevators, coal loaders, and people that invested money based on a known Government policy. There was a cost return that they figured they would get back from the structures that were built, and usually, that would have about a 25-year life.

I figured if by the end of that time the investors could decide whether they wanted to build a new facility someplace else, or shift their transportation to another mode, or whatever else they wanted to do.

Senator DOMENICI. I was just thinking back to the first legislation that passed on this subject, my bill. We had a 10-year phase-in proposed, and I personally thought that was about as long as anybody ought to wait, especially after 35 or 40 years. But anyhow, I understand your proposition.

Am I correct that under your proposal, you would recover no construction costs, that is, those that are amortized until after the projects that are now under construction are open for traffic?

Mr. LEHMAN. Yes, sir, it is similar to a person that builds an apartment building, but he doesn't get the rent on the apartments until somebody moves in them.

Senator DOMENICI. How about in the future? Wouldn't your proposal say that even projects that are not now under construction would have to be open to traffic before you started figuring them into the overall account that you are trying to recoup?

Mr. LEHMAN. Yes, sir, it would be on an amortized schedule that you would have for each capitalized project. If it took 5 years to complete, at the end of 5 years you would start charging the users for that amortized yearly cost when they start use of the project.

Because you really don't pay for things before you start using them.

Senator DOMENICI. I think a lot of people do. It takes 10 years to build a new utility plant. You don't get the 10 years free. Somebody pays the interest on the 10 years, and it is usually the user.

Mr. LEHMAN. Well, a utility plant, Senator, I would think—

Senator DOMENICI. I just use it as an example. Somebody is paying it.

Mr. LEHMAN. They have a monopoly, usually, on the service area. Barge users do not have a monopoly on the service area of the customers that they serve.

Senator DOMENICI. It seems to me that if you are going to do anything like a long phase-in and then add another 5 years for construction which would be there forever, I mean, after it would be phased in, you would have a project that takes 5 years to be built, not figuring into the project the overall expenditure of the project until it has been completed.

It will be a long, long time before you get recoupment. Let me close by saying I just disagree, and we are entitled to that. I thank you for your testimony. I certainly understand that you don't want a lot of time, and I will pass it back to you.

Senator ABDNOR. It is just that we have a great number of witnesses, and I, too, have to be out of here shortly after 12 o'clock.

Mr. LEHMAN. I would just like to say, Senator, if that is the only problem that you have with the concept, I could be a little more flexible.

Senator DOMENICI. You are very kind; you are very generous, and you know me better than I think a lot of people know me.

Senator ABDNOR. Thank you.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator ABDNOR. I am going to call Mr. James McJunken to the table along with a number of people that will form a panel.

Mr. McJunken, we welcome you and your people here. I know you have some comments to make on legislation that we have passed out of this committee, and that is what we are here for. We will turn the floor over to you.

STATEMENT OF JAMES MCJUNKEN, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ACCOMPANIED BY ROY PERRY, EXECUTIVE DIRECTOR, PORT OF LOS ANGELES; DICK SINNOT, PORT OF OAKLAND; AND AL CISNEROS, GENERAL MANAGER AND PORT DIRECTOR, PORT OF BROWNSVILLE

Mr. MCJUNKEN. Thank you, Senator. I would first like for my colleagues to introduce themselves, but before that, one of my colleagues is bogged down in New York. Mr. Tozzoli, the port director of the Port of New York, has not arrived, so I apologize for his lateness.

Mr. SINNOT. I am Dick Sinnot; I am representing the Port of Oakland in California.

Mr. CISNEROS. I am Al Cisneros, the port director from Brownsville, Tex.

Mr. PERRY. I am Roy Perry, the executive director of the Port of Los Angeles.

Senator ABDNOR. We welcome you all. Go right ahead.

Mr. MCJUNKEN. Mr. Chairman, I thank you for this opportunity to appear before the subcommittee. The National Coalition for Port Progress is a coalition of major U.S. ports. As we prepared this testimony, Secretary of Commerce Malcom Baldrige announced the 1983 fourth quarter economic status. There has been a drastic worsening in the Nation's trade balance, having serious repercussions on the economic recovery. While these Commerce Department figures do not necessarily pinpoint specific instances where U.S. sea ports are unable to pass through export products, they are a painful reminder that our export posture continues to haunt us.

Those of us who run commercial ports continue to be frustrated in our efforts to contribute to the balance of U.S. trade. Tonight, the President makes his state of the Union message to Congress. Last January 25, 1 year ago today, the President twice called for timely and efficient port construction.

Mr. Chairman, we need a workable water resources policy without delay. Our coalition has testified previously and continues to support 100 percent Federal responsibility for channel work funding except in the case of projects deeper than 45 feet, in which case, the local level should share 50 percent of the cost.

In addition, our ports seek legislation to dedicate a portion of annual customs receipts toward the Federal share of the deep water channel program. Finally, procedures and regulatory reforms are sought to streamline the permit and construction programs.

We applaud the committee's work in arriving at legislation representing a compromise among the strongly held views in the Senate. We are particularly pleased that the committee reported a bill that retains the Federal responsibility for maintenance work.

The provision to speed up the permitting process is also very welcome and necessary in any port development legislation. While we recommend some important additional provisions in both authorization and regulations, the language in section 1007 is also to be applauded.

The coalition is hopeful that the action by the committee signals the Congress commitment to seek enactment of a port development bill by the end of the year and an end to the stalemate we have seen in water project authorizations. The Environment and Public Works Committee has the active support of the coalition toward that end.

Some aspects of the legislation do concern us, and we recommend some changes. The concept of a commission is generally good, but we would like its mandate to be broadened to first determine whether cost recovery on maintenance is a wise policy. The recent EDA-funded study gives us reason not to rush into fees on maintenance.

Also, we believe it unwise to place a cap on annual O&M spending, particularly if it is retained pending congressional action on the advice of the commission. In the absence of direct Federal funding of projects deeper than 45 feet, the loan provision is welcome, although the coalition, frankly, remains uncertain as to how useful the guarantee would be in making financing possible.

As for the permitting provisions, the 2-year permit process would be a welcome change to the present system, although we would urge even speedier treatment by the Federal agencies. Two definite improvements we would suggest include requiring the appropriate Federal agencies to participate in a consolidated process and adding some mechanism, perhaps automatic permit approval, which would make the 2-year goal more enforceable.

One major concern we have is the legislation's limitation on local fees. Mr. Chairman, we do not believe that a single meaningful port project will go forward if this provision remains in the bill. The Federal funding of navigation projects has always been de-

pendent on first showing favorable benefit-cost ratios which take into account all beneficiaries over a long term.

Indeed, this legislation authorizes projects on the basis of that analysis. It is, therefore, illogical and inequitable for the legislation to apply a different standard such as a direct beneficiary requirement to the local share.

The direct beneficiary rule for the assessment of user charges promises to make it impossible for project costs to be recovered through user charges.

Rather, the legislation should allow maximum flexibility to the non-Federal entity to assess reasonable port charges as the specific situation warrants.

Reasons for that view include: No. 1, beneficiaries of any given project are not limited only to the specific user of the project depth of that channel. Projects benefit a wide range of economic activities at all levels of the port community and beyond.

No. 2, another problem with the direct beneficiary policy expressed in the bill is that not all channel projects are deepening. The widening of the Houston Ship Channel is a good example of a project whose costs would have no relationship whatsoever with the draft of the vessels making use of it.

No. 3, channel improvement projects and the associated landside development in ports are long-term undertakings. Under the direct beneficiary rule, the first years of a deepened channel may see only a small number of vessels which can not be expected to bear the local share largely by themselves.

No. 4, local entities are better able to determine charges that reflect the marketplace. We must take into consideration the local and regional economy, the port condition and other factors peculiar to our ports.

No. 5, the more tightly you define who are beneficiaries, the greater the incentive for vessels to avoid these through light loading and similar strategies.

No. 6, a port is an integrated network of channels, marine terminals, railroads, and highway access routes. A port cannot be divided into segments, wherein each segment is required to stand on its own merits. Ports pool their facility revenues and expenses and use consolidated revenues as a basis for selling port revenue bonds. Usually, the port's entire credit base supports bond sales, regardless of how the bond revenues will be utilized. Port tariffs for facilities are equalized within a port, and quite frequently, are equalized among a number of ports in a region.

Requirements that a percentage of local costs for channel improvements be applied only against the direct users of that channel are inconsistent with economic reality and port practice.

No. 7, candidly, Mr. Chairman, the reason that Congress is considering local cost sharing and user charges is because the Government wishes to reduce the Federal share of channel costs for budgetary reasons. In other words, the user fee issue is not motivated solely by an interest in esoteric economics. If we must assume this burden, we must have the freedom to make the project economically viable.

Finally, we ask the committee to be mindful of the responsibility of the public port authority. As directors, we must plan for future

development. We must anticipate trade opportunities and vessel technology by as much as 20 years in advance for a port to remain competitive and to serve those direct and indirect beneficiaries enumerated earlier.

Port directors cannot be shortsighted and judge a channel or landside improvement by its short-term performance and pay off.

The public interest is not necessarily served by doing so. Port authorities cannot plan for the prospective needs of port users with restrictions on their ability to get the work done.

The coalition would like to close, again, by thanking the committee for your efforts in producing port legislation. We commend your leadership and look forward to seeing legislation become law in 1984.

Thank you, sir.

Senator ABDNOR. Thank you, Mr. McJunken. Let me ask you, how many ports belong to the coalition?

Mr. MCJUNKEN. Fourteen.

Senator ABDNOR. You have 14. Each of you gentlemen are going to have a statement?

Mr. MCJUNKEN. No, this concludes our testimony. We are all here to answer questions, then.

Senator ABDNOR. Would you care to leave your statement here?

Mr. CISNEROS. Yes, I would. A lot of people ask me why a small port like Brownsville belongs to the National Coalition of Port Progress, which is primarily made up of your major ports of the country, namely, New York, Los Angeles, Long Beach, Houston, New Orleans. The majority of the Texas ports are involved in this coalition.

Senator ABDNOR. Let me say that we will put the entire statement into the record. I just want to say that we appreciate the comments of your coalition. I guess, as I said earlier, you have to get right up against the line before you finally get people coming out. I guess they just don't believe you are really going to do something, and after 3 years, maybe they have that right, but we are going to get a bill through, and I don't intend to get tied up forever with all kinds of new proposals.

So we are going to review them; give them every consideration and keep moving. I think the bottom line is legislation is needed. This certainly can't go on any longer. We are going to do everything possible to do that. We have got a long day here, but you go right ahead. You have come a long way.

Mr. MCJUNKEN. I tend to agree with you, Senator. It took us a long time to realize that you really meant it.

Senator ABDNOR. I still do. I hope I don't get talked out of it. I have no intention at this time, I can assure you.

Go right ahead.

Mr. CISNEROS. Thank you, Senator. My purpose of testifying is to make sure that your committee considers the prospective of the small port which plans to be a deep-draft port.

As you know, I have often described our port system as a zoo; that we are all different sizes and shapes; organized differently; financed differently; governed differently, but working together with the Federal Government over the years in a consistent manner.

I am here basically to represent my particular region, which is one that is presently suffering very severe economic hardships, and we are presently engaged in a wide variety of infrastructure projects to help stimulate economic development in our region.

We happen to be a port which serves south Texas and northern Mexico. Traditionally, when we have made capital investments, the users of our port have paid for it. Some people say, "Why is the Federal Government spending money on a port facility that serves northern Mexico?" Let me say that the users, the shippers from that region have been paying their way. Fortunately, it has contributed to the stability and the growth of our port.

This region, however, is presently undergoing very serious economic problems. The free enterprise is seriously endangered in Mexico at the present time, and I think that the Senate of the United States needs to be made aware of this.

However, we feel that if that economy were to collapse, you would have political instability and possibly insurrection, that we may have a very real and serious national defense problem right in our own backyard. I think we must keep a focus on this region.

One of the unique things about the Brownsville project is that we presently have an industrial potential, a specific project where the user is willing to help guarantee the financing of our channel deepening. We are approaching this on the basis that it may be that the local port authority may have to go forward to finance the channel deepening itself in order to respond to the needs of the industry that we are attempting to develop in our region to create jobs for our people.

My written prepared testimony goes into these matters in greater detail. I think my principal message to you, Senator, is that you must keep in mind the needs of the various regions of the country from the perspective of the small port and make sure that the formulas that you come up with are some that ports of all sizes can deal with and can live with.

Because we are very much a part of this country, and we want to be sure that our region is as healthy and as prosperous as the rest of this Nation.

Thank you, Mr. Chairman.

Senator ABDNOR. Thank you, Mr. Cisneros. Let me tell you this: I know what you are saying, when I talk about South Dakota, I have to think in terms of how it fits into the scheme of things. Are you pretty much in accord with what Mr. McJunken said?

Mr. CISNEROS. Yes, sir. As a member of the coalition, we studied all the various bills.

Senator ABDNOR. What does our proposal do to a port like yours? Where we pay for the maintenance; that is very generous. What do you see wrong with that?

Mr. CISNEROS. Well, we found that the identification of the beneficiary may not be as easily identifiable, and I think that was the key, one of the key points made in Mr. McJunken's testimony.

We feel that, and I think he did allude to the fact that we believe that customs revenues is a very important source of revenues to our Federal Government which are generated to the ports. I know in my specific report, in 1981, which are the latest figures that we have, there was \$18 million in customs revenues. However, the

Corps of Engineers spent between \$1½ to \$2 million a year on improvement of our waterway.

We feel that for every \$3 that the Federal Government has invested in our port, there have been \$32 by the local port authority and by the taxpayers of our specific region. So, historically we have leveraged Federal investments substantially, and we stand prepared to do so with the coordination and support of private enterprise, as well.

So it is not a question that you all are the only ones that are spending money and investing there. What we are asking is that you come up with a plan that we can live with so that we can respond to the needs of the people of the region.

We understand the dilemma that you are facing here.

Senator ABDNOR. Let me say that ports come in different shapes and sizes and there are lots of different opinions regarding them. Over a 3-year period, the committee has had lots of proposals and objections, and we are trying to find something we can get together on.

What do you see as being the maximum depth we need to go to? What are we talking about here?

Mr. McJUNKEN. I think probably my own port has among the most ambitious plans for depth, and we see a need to go to approximately 76 feet. That would handle basically all of the quarter-million-ton vessels. I don't think the United States really needs to go any deeper, because there is only a handful of the very hugh ships left, those that are 400,000 and 500,000 and 600,000 tons, but I think the Nation needs quarter-million-ton vessel capacity.

Senator ABDNOR. How much would the extra 30 feet cost when you talk about going from 45 feet to 75 feet?

Mr. McJUNKEN. Actually, our own example, we are already at 60 feet, so we would only be deepening 16 feet.

Senator ABDNOR. There are going to be some ports going to 70 feet. Whatever we devise for a formula, we are going to have to go across the board with it.

I realize you are on the west coast, but what if Hampton Roads decided they wanted to go to 70 feet? They are at 40 to 45 now. What if we put a formula together if you were to go along with that? What do you think the cost would be to go from 45 feet down to 70?

Mr. McJUNKEN. You are talking nationally in dollars?

Senator ABDNOR. Yes.

Mr. McJUNKEN. It would be a wild guess on my part, but I would say something in the neighborhood of \$1 billion for the Nation, and that is a guess.

Senator ABDNOR. For that particular port, yes, everybody off the top.

Mr. McJUNKEN. I think the important thing is, Senator, that we have to remain competitive, and we have to keep up with technology and the rest of the world is accommodating that sized vessel now.

Senator ABDNOR. That is true. Let's go over that.

Senator MOYNIHAN. Let me hear the last words, Mr. Chairman.

Mr. McJUNKEN. The rest of the world is accommodating, speaking of quarter-million-ton vessels, is accommodating them now.

Senator ABDNOR. I want to call on my colleague and the ranking minority member of this committee. He has been of great help on this legislation. Do you have anything you would like to say?

Senator MOYNIHAN. I do, Mr. Chairman. I have one question, and just one comment.

Would you forgive me? We are back into our usual routine on the Finance Committee at 10 o'clock with a hearing on legislation, and one is supposed to be in three places, I am sure.

But as to Mr. McJunken's remark, this is exactly what concerns the subcommittee, and I think the full committee, which is that an old and established and, for a very long while, effective way of handling ports and inland waterways just kind of came to an end of its era. I mean, it is very close to my heart, because it was a decision by John Marshall with respect to the granting of a steamboat monopoly on the Hudson River that put the U.S. Congress into the rivers and harbors business, saying that the rivers were interstate commerce. That was in 1824.

For a century and some time, it worked well, and we got the Corps of Engineers; we got the Mississippi-Ohio systems; we got all of them, and we came to a time when, by the time of the Civil War, the tonnage on the inland waterways of the United States was greater than that of the British merchant marines.

The world is getting ready for the supertanker age and we are going to have to deepen our harbors.

If you fly over Portsmouth, there is nothing more mournful than the sight of those colliers out there at \$10,000 or \$15,000 a day just waiting to come alongside.

We know the chairman, my distinguished friend, has learned a lot more about rivers and harbors than he probably ever wanted to know on that farm of his.

But the only arrangements by which we have worked would pretty well guarantee that by about the year 2030, we would have about 15 76-foot ports. That is the way it would trade around over the next half century. But in the meantime, an enormous amount of commerce would have gone elsewhere, and we don't need 30 of these things; we need 4, 5, or 6, and that is what our legislation is trying to do, get what we need in this decade and not go through the trading process which, in the middle third of the next century, we would have gotten what we needed in the last third of this century.

I guess I have one question to you, and perhaps I am misinformed about your view. We provide for 70 percent guaranteed, a loan guarantee for the deepening of those harbors which decide that it makes economic sense to do so.

That is a subsidy; any Federal guarantee is a subsidy of some type.

Why don't you think that this would be useful? What do you think?

I ask Mr. McJunken, you were speaking, but of course, the whole panel.

Mr. MCJUNKEN. I think our problem with it is basically, that we don't know enough about it. Would this guarantee be secondary to our own financing?

In the real world anymore, ports have to just about incur 100 percent financing. Currently, our basic medium is the tax-exempt revenue bonds. If this Federal guarantee were primary to our revenue bonds, we would never be able to get the 30 percent, so it would have to be secondary. I think one of our basic problems with it is we don't know enough about it.

Senator MOYNIHAN. I invite the comments of the other members of the panel.

Mr. CISNEROS. I think also, Senator, that one of the problems is that we might actually be paying more under the Federal guarantee program than we would be if we financed it ourselves under the regular revenue bond system.

Senator MOYNIHAN. Could I just put this proposition up, and then I will be through, Mr. Chairman.

If we make the provision available to you, as it is basically an option, is it not? If you do all your arithmetic, if it doesn't help you, you don't exercise the option.

Mr. CISNEROS. If you could make the provision so that it would be, as Mr. McJunken said, subordinate to our existing revenue bonds, then I think it would be fine to have the provision available to us. If the revenue bonds have to be subordinate to the Federal guarantee, then we will have an extremely difficult time with raising anything.

Senator MOYNIHAN. But subordinate; I am sorry to say I don't own any bonds. That is one of the mistakes I have made in my life, but by subordinate, do you mean in terms of what are the priorities of the payment?

Mr. CISNEROS. It would be a second mortgage, in effect.

Senator MOYNIHAN. Right. I wonder if we could ask these gentlemen if they could give us some language that would meet their interest. It seems to me to be a legitimate concern.

Senator ABDNOR. That would be fine. That is what these hearings are all about.

Mr. MCJUNKEN. Another basic problem we have in these projects like channel deepening is that it is a decade before you get any revenue from them. It takes 2 or 3 years to permit them; 2 or 3 years to build them; and then you have to build the shore facilities to use them.

So we have really no benefit for 10 years.

Senator ABDNOR. Any suggestions to overcome that?

Mr. MCJUNKEN. Yes; I think we do. In the 30-percent local share, if there was some kind of delay in repayment for a decade until it was earning something, it would be very beneficial.

Senator MOYNIHAN. Mr. Chairman, these gentlemen know; they run the ports. What do you say we ask them to give us some specific language that meets some of their needs?

Senator ABDNOR. I think that would be an excellent idea. We can move right along here. That is what we are here for. We appreciate it. Our staff is always available to you.

As a matter of fact, I want you each to know that we are going to feel free to call on you in the form of written questions, if necessary. I am sure our people will work things out with you. If you have any proposals, we would welcome them, but soon. The one

thing I don't want, gentlemen, is to drag this out. We have got to move.

With that, gentlemen, I am going to excuse you, because we have a long way to go.

So thank you very much.

Mr. McJUNKEN. Thank you.

Mr. CISNEROS. Thank you, sir.

Senator ABDNOR. Next is a group of environmentalists, Dr. Campbell, Ms. Lancelot, Mr. Conrad, Mr. Hinniker, and Fred Smith? Are we all up here?

We are trying to move right along. I need not remind everyone that the purpose of this hearing is to review our legislation over the last 2 months. If you have something that might improve it, we are willing to listen. We have had 3 years of hearings. So this is not exactly new, but we welcome the panel.

Who wants to start out?

Mr. BLACKWELDER. Mr. Chairman, I am Brent Blackwelder of the Environmental Policy Institute. As a result of a death in his family, Steve Hinniker could not make it, and I am here. Also, I might comment, the agenda listed us as an environmental panel. I want to make it clear that while three of us represent environmental organizations, the two others to my right are speaking on behalf of a completely different set of interests.

Senator ABDNOR. All right.

Mr. BLACKWELDER. How do you want to proceed?

Senator ABDNOR. This hourglass tells us how much time you are taking. I want you to know, that I am sorry; I don't like to rush people, but I do want to get through today. This may remind us all to hurry. I am being perfectly fair.

Mr. BLACKWELDER. Mr. Chairman, is that for the whole panel?

Senator ABDNOR. No, sir, but we are not going to take 25 minutes.

Ms. LANCELOT. Is that 5 minutes?

Senator ABDNOR. That is 5 minutes. I already set it off.

Go ahead. Who is starting?

STATEMENT OF DR. DAVID CAMPBELL, RESOURCE ECONOMIST, NATIONAL WILDLIFE FEDERATION

Mr. CAMPBELL. I am David Campbell, a research economist with the National Wildlife Federation, the Nation's largest conservation organization with 4 million members and supporters nationwide.

Our membership is aware of the immense contribution that the Federal investment in waterways and ports makes to the movement of goods within the Nation and exports to other countries. But overinvestment and misinvestment in our transportation network weaken our economy. Identification of the worthwhile investments through a pricing system can direct resources to those investments that will increase the overall efficiency of the Nation's transportation network.

Therefore, we support the enactment—and indeed, the strengthening—of title V of S. 1739 which authorizes the Secretary of the Army to recover and obligate user charges for annual expenditures on inland waterways that exceed the cap of \$646 million.

I was pleased by the testimony of Mr. Charles Lehman this morning.

I ask the committee if you would maybe seriously consider the proposal of Mr. Lehman on behalf of a major barge company to institute inland waterway user fees.

I have three brief points to make this morning that support our position.

First, on the impact of the waterway user fees, the opponents of user fees claim that several shipper groups, such as grain farmers, would be severely harmed by user fees. However, we believe that the users would be required to pay only a portion of the total annual costs of the inland waterway system under the provisions now in the bill.

According to estimates submitted to the committee by the Corps of Engineers, the total inland waterway costs will range from about \$652 million to \$891 million between 1987 and 1994. The percentage of the total costs above \$646 million that need be recovered from users thus would only range from about 1 percent to 27½ percent. These percentages are far less than full recovery.

I recall that Alice Rivlin, the former Director of the Congressional Budget Office, gave a number of about 3 cents a bushel in testimony before this committee last year. I think that 3 cents will be less than the everyday changes in other factors that affect farm income. For example, last Thursday, at the Chicago grain exchange, March soybeans futures rose 5½ cents per bushel and March wheat futures fell 6 cents per bushel. We have recently completed an analysis of the Corps of Engineers data on traffic at the Gallipolis lock on the Ohio River. We found that the level of shipments was much more affected by steel demand, the health of the economy, et cetera, than by changes in the price of barge service.

Another point is that Congress ought not overcommit to a new round of construction that will lead to a high level of expenditures in later years. If inland waterway costs become higher than the cap of \$646 million, pressures will be exerted on the Congress to raise the cap. Two things should be done to avoid this situation in later years. You can invoke the cap in fiscal year 1985 rather than in fiscal year 1986; to avoid a free year for initiating a large number of new projects. Also, the cap should be progressively lowered, as with the Simpson amendment, to establish that users are indeed expected to repay the costs of new construction of waterway projects.

Another problem is that of cost allocation, one that the committee has not faced it, yet. The allocation of costs among different purposes and multipurpose projects will become a more important issue after the adoption of S. 1739 because the bill will increase the costs to be shared paid by non-Federal entities. The present case-by-case allocation measure may be sufficient when cost sharing is low, but serious conflicts will now arise among user groups if Congress does not mandate a consistent cost allocation policy.

For example, there are several corps feasibility reports now pending before Congress that recommend construction of hydropower facilities at existing locks and dams. If the costs of joint-use features, such as the existing low head dams, are to be allocated to hydropower from other purposes, the navigation costs that need to

be recovered from user fees could be reduced. Conversely, power repayment obligations would be greater than would otherwise be the case.

This committee should anticipate and reduce forthcoming conflicts regarding cost allocation. One way would be for the Congress to simply decide its cost allocation issues right now as a matter of law. Another option, and one that we recommend, is to charge the National Water Policy Board with the responsibility for promulgating rules for the corps and other Federal agencies in allocating costs of all Federal water projects in a consistent way among purposes and among agencies. In any event, such rules should be developed through a public notice and comment process that will allow for full input from the States, private sector interests, and the general public.

After the enactment of this bill, cost allocation will be too complicated to leave some black box administrative formula of uncertain application.

We feel increased cost sharing and user fees will reduce the present distortions in the functioning of the private economic system. This committee is to be commended for its first steps regarding these issues as embodied in S. 1739.

Thank you.

Senator ABDNOR. We thank you.

STATEMENT OF DAVID CONRAD, WASHINGTON REPRESENTATIVE, FRIENDS OF THE EARTH

Mr. CONRAD. Good morning, Mr. Chairman. My name is David Conrad, and I serve as the Washington representative of Friends of the Earth, a national conservation organization of more than 30,000 members located in all 50 States.

Mr. Chairman, as members of the committee are undoubtedly aware, the development of harbor and inland waterway projects historically has been accompanied by severe environmental impacts, sometimes resulting in total alteration of natural riverine and riparian habitat along major reaches of the premier rivers and coastal areas of this Nation.

We are extremely grateful to the members of this committee for their leadership in helping to see to it that mitigation for environmental damages will take place in future projects. But in many instances, the damages can never be fully mitigated.

The current methods of financing projects with only the most minimal of cost sharing by the users and sponsors is, in our view, causing large-scale, often needless environmental degradation. The public is paying for a gold-plated Rolls Royce waterway system where a good Buick would do, with far less cost and environmental damages. If the users want a Rolls Royce, they should be required to pay for it.

In yesterday's hearing, the chairman asked for suggestions on improvements as to how to deal with cost sharing.

The context of the situation as we see it is partially etched out in the draft of the national waterways study conducted for the Congress by the corps. The study shows a smorgasbord of more than \$22 billion of canal dredging, lock expansion, rehabilitation and

channel maintenance projects and operations on inland waterways alone through the year 2013.

Members of this committee have pointedly questioned both the need for this enormous amount of work and certainly whether the Federal Government has the resources to accomplish it. We echo the concerns of the committee both as taxpayers and as people concerned about the environmental consequences of such massive development.

We believe the user fee proposal in title V of S. 1739, if enacted, would fail to cause a fair or meaningful sharing of costs by waterway users, both because the cap is too high, and it would be subject to manipulation. As a result, no environmental benefits could be expected since the desired improved scrutiny of both the economics and designs of projects by the communities and companies that would use them would not take place.

In November, Senator Simpson offered an amendment to gradually decrease the degree of subsidy to inland waterway shippers by decreasing the cap in the bill. We supported this change at the time and will continue to support it.

The \$646 million cap derives from the second highest year of inland waterway expenditures in U.S. history, swelled by three major new construction projects: Tenn-Tom, Red River and lock and dam 26 on the Mississippi. Although we are more inclined to support Senator Simpson's approach, an alternative that would quickly establish more meaningful user charges would be to reduce the cap by the equivalent fiscal year 1983 expenditures for the above three construction projects.

Another concern we have regarding the cap is that, as Dr. Campbell mentioned, under some future circumstances project cost reallocations might be made to emphasize other elements such as flood control or land drainage over navigation. In such instances, the cap should be lowered to reflect the reallocation away from navigation.

The bill or report language should be as unequivocal as possible on this point. We would not support indexing the cap as some have suggested in the course of these hearings.

The committee bill establishes a waterway users board to advise the Secretary of the Army on needed levels of expenditure and the best means of imposing user fees to meet revenue requirements.

In general, we feel this is a reasonable mechanism to force waterway users to make realistic choices for the future of the waterway system. We would request that the committee consider, however, that there are many other users of and interests in waterways than simply navigation and that the composition of such a board should show at least some recognition of these other interests.

Regarding the port provision in S. 1739, it is our view that the up front local cost-sharing requirements make the bill's approach superior to that of S. 865 and the corresponding House legislation. It is vexing, however, that S. 1739 fails to come up with any plan to share port operations and maintenance for general cargo ports while at the same time authorizing 22 new port projects at a Federal cost of nearly \$900 million. As in the waterway section, the cost recovery is still far below that proposed by the Reagan administration, proposals which we feel are responsible and could be made to work if allowed—

Senator MOYNIHAN. Might I interrupt, sir?

Mr. CONRAD. Yes.

Senator MOYNIHAN. The cost recovery proposals formerly advocated by the Reagan administration.

Mr. CONRAD. Having read the letter that was referenced in the paper this morning, there is still some hope, I think, in there.

Senator ABDNOR. I just may add, some very strong cases have developed here. We are already paying for this through customs. What do you say to that? You can get it through your case on that side of it, too.

Mr. CONRAD. We don't believe that the customs fees are in any way related to user fees. They are not based on the cost of the service.

Senator ABDNOR. They created a lot more than the cost of the service.

Mr. CONRAD. But they are not related to it.

Senator ABDNOR. I have a hunch that if we try it like the gas tax problem for highways, if we were starting from scratch and didn't have them accustomed to going to the general fund, we would have a hard time trying to increase some of this wealth than the people who pay for it. The fact that it never has gone there builds a pretty good case.

My colleague to the left of me has to find revenues through his committee to run Government, and I don't think he is going to let loose of it.

Senator MOYNIHAN. No, you are not going to get those customs moneys.

Mr. CONRAD. All evidence shows that when users sense that they might have to pay for projects, project designs quickly become utilitarian. This was clearly a factor in the recommendations of Louisiana Governor Treen's task force on the Mississippi River channel, and the recent plans to stage the development of the Norfolk Harbor project.

For these communities, as soon as it appeared they were going to have to pay for these projects, the projects were cut to one-half their size. I think that is quite significant, and I suggest that this really is a good policy to proceed with.

Senator ABDNOR. I am going to have to ask you to move right along. We have got a couple of other witnesses; we have got a whole group of witnesses; and I just have to ask you.

Mr. CONRAD. All right. Thank you, Senator.

STATEMENT OF BRENT BLACKWELDER, DIRECTOR, ENVIRONMENTAL POLICY INSTITUTE

Mr. BLACKWELDER. I am Brent Blackwelder, Director of the Water Resources project and the Environmental Policy Institute, and I would like to submit the statement of the Sierra Club associate Midwest representative Spencer Black for the record, and because Steve Hiniker was not here, I would just like to summarize his statement. The focus of both these statements is to provide for the record some background information on the environmental impacts, not of new canal development, because I think you have heard and seen questions raised about new canal construction and

its environmental impacts, but the environmental impacts of increasing barge traffic on existing waterways. This testimony describes some of those impacts on the Illinois River and on the Upper Mississippi. Let me just describe three categories of the impacts.

The first is in terms of ancillary development: Of primary concern are barge fleeting areas, that is to say, where large groups of barges are tied to banks while they are not in service for cleaning. These can cause very serious and substantial problems, and have provoked, most recently, three serious hearings and discussions at Prairie du Chien, Wis., in Pig's Eye Slough, and another one in Pike's Peak State Park in Iowa. The problem starts with barge fleeting uprooting trees, since barges are moored to these, usurping hunting and fishing sites as well as causing pollution problems when barges are cleaned at fleeting sites. Local residents complain of visual and noise pollution from barge fleeting sites, and far too often, sites are selected that compete with existing uses of the shoreline, pitting residents against barge fleeters.

One example is the neighboring barge terminal on the Illinois River. Here, in a 7-mile stretch of river, approximately one-half of the shoreline would be taken up for barge fleeting operations, and this would be in the most environmental sensitive areas of the river, close to the Madow Sham Wildlife Refuge.

In addition to concerns over barge fleeting, there are serious concerns over water quality. Increased river traffic will result in increases in the amount of suspended solids in the river. Sediment accumulated in the main channel is combined with toxic substances that have entered the river upstream and settled down into the channel bottom. The dredging activity resuspends these toxic substances and puts them into the water and poses a danger to fish and to consumers eating these fish. It is significant that over 25 percent of the Nation's fresh water commercial fish catch comes from the Mississippi River.

Resuspending these solids also destroys the benthic organisms at the base of the food chain because the settling back covers over and smothers these organisms.

One study of the Illinois River by the Commonwealth Edison Co. of Illinois looked at what happened when the Illinois River was shut down to barge traffic over a 4-month period, and they reported "that barge traffic does have an adverse effect on dissolved oxygen, turbidity, and suspended solids due to the suspension of accumulated organic sediments in the overlying water column." So, these indicators all declined when the river was closed or blocked to barge traffic, but when barge traffic increased, then water quality was deteriorated again.

The final category of impacts concerns the damage to adjacent wildlife areas along the river. I might send up to the committee, if I could, just several photographs. The Upper Mississippi River contains some of the great wildlife refuges of the country, and it is estimated that 75 percent of the waterfowl in the Nation use the Upper Mississippi and its adjacent wetlands. I think you can see from those photos that I am distributing that you have a broad assortment of marshes, sloughs, and backwaters. As a result of in-

creasing barge traffic, you increase the amount of sediment that is stirred up and filters into the backwaters.

The backwaters are now filling up at the rate of up to 2 inches a year. Since the construction of the dams on the Upper Mississippi, approximately 25 percent of the open backwaters have filled with sediments. The work team for the Upper Mississippi Master Plan Task Force said that in 50 years, we are going to lose most of these backwaters unless something is done.

Senator ABDNOR. Mr. Blackwelder, can I interrupt you for a minute? I don't want to appear harsh. That was not the purpose of this hearing. These were discussions we had earlier, and they were taken into consideration. What I had in mind for the purpose of the meeting was, if you didn't like our legislation, and if you have a better way to improve it, tell us. This is going back and saying the same thing over.

Mr. BLACKWELDER. Let me make the connection, Mr. Chairman. The reason we are trying to stress increases in traffic causing environmental problems is if you put in full-cost user fees, you will assure that only the traffic barges that move by does so. Without user fees, what happens is that you will have traffic that could be moving by another mode directed by the subsidy to the river, and these are the impacts. These are very serious impacts and are causing a tremendous amount of citizen concern. I think that is what we saw in an 8-8 tie vote on the Simpson amendment. We thought that amendment would increase the subsidy, and we are trying to provide additional information to the committee about recent controversies that I think might help shape the debate on that.

We are concerned in particular that without this information, that efforts might even be made to increase the cap before the bill goes to the floor, and we might even lose ground that we have already gained.

Senator ABDNOR. Go ahead. I just thought we have got to move along. You have got two other witnesses.

Mr. BLACKWELDER. I think that I just want to conclude by saying that as we lose these backwaters, we lose a substantial amount of economic gains as well as environmental quality along these rivers, including lost recreational opportunities, lost fishing opportunities for sport and commercial fishermen, and this all translates into, I think, a great loss for the Nation.

That concludes our presentation.

Senator ABDNOR. Thank you. I am sorry if I appear harsh, but we have just got to keep moving.

Go ahead.

STATEMENT OF JILL LANCELOT, CONGRESSIONAL AFFAIRS DIRECTOR, NATIONAL TAXPAYERS UNION

Ms. LANCELOT. I am Jill Lancelot, and I am from the National Taxpayers Union. I do represent the taxpayers of this country. I would like to request that my entire testimony be inserted in the record.

Senator ABDNOR. I assure you, it will be.

Ms. LANCELOT. Thank you. I included in my statement a quote from the latest Congressional Budget Office report, and I would

like to read it in response to some of the questions that are coming in: Why do we need user fees? The CBO says that:

Continued subsidization distorts Federal spending, encouraging inefficient use of resources, widening the budget deficit and creating economic inequities. Increased reliance on reimbursement from the recipients of Federal services could mitigate these problems.

I think that is what we are trying to address, and I will now go on to our views.

We do oppose S. 1739 in its present form, because we strongly believe that the taxpayers should not be expected to pay for projects which benefit narrow special interests. We believe that a comprehensive system of user fees to finance the building and maintenance of America's transportation network is in the best interest of taxpayers, consumers, and the economy.

I think it is time to recognize the country's national goals have changed substantially from the days when inland waterway service was the major link for freight movement between eastern population centers and western frontiers. Now that that transportation network is in place and extensively developed, the Federal Government should treat all of them equally to let the marketplace determine the most efficient mode. The vociferous debate over whether or not to build the Tennessee-Tombigbee Waterway would not have occurred if the Government had allowed the waterway's supposed users to finance even part of this project.

The passage of S. 1739 in its present form only assures the continuation of such debates.

The depiction of title V's \$646 million yearly obligation of Federal expenditures for inland navigation as a spending cap, we feel, is very misleading. By guaranteeing any shortfall below \$646 million for use in future years insures that this spending level will be only the minimum contribution the Federal Government will make on an annual basis through fiscal year 1999.

Fiscal year 1982 outlays for inland waterway expenditures were at the highest level than in the last years. Yet the proposed cap of \$646 million will decrease this level by only 8 percent.

Instead of recovering more of the costs for inland navigation projects, the bill institutionalizes an egregious Federal subsidy for inland navigation over other shipping modes.

To correct this inequity, we urge the committee members to adopt the Simpson amendment, which will reduce the Federal share of inland navigation spending by \$35 million a year for 12 years. I would make note that we feel that this is an important step toward the goal which we would like to see of 100 percent cost recovery.

Inclusion of the Simpson amendment in S. 1739 would assure creation of a partial user fee system if waterway users decide that spending levels must be sustained. We recommend to the committee the findings of the Report on User Charges just completed by the Grace Commission. It includes that 100 percent recovery of the Federal Government's construction and operation and maintenance costs in the inland waterway system is appropriate. It proposes that the recovery be phased in over a 5-year period to avoid sudden disruptions. Such a recovery would net over \$600 million in the first 3 years and allow current fuel taxes to be phased out.

We feel that user fees impose a high degree of fiscal discipline regarding investment decisions in any project. Each segment of our inland waterway system should pay for itself. Systemwide user fees serve only to cross subsidize unneeded segments. However, segment-specific user fees prevent the building of unneeded waterways, which is very important.

On the subject of ports, S. 1937 forces taxpayers to pay all of O&M expenses for ports under 45 feet in depth and 50 percent of the operation and maintenance expenses for ports with depths over 45 feet. With 84 percent of the corps 1984 outlays for ports being spent on maintenance, it is clear that the taxpayer will continue to subsidize those ports.

We also feel that it might be somewhat doubtful that a National Commission on Harbor Maintenance, which is assisted by a panel of shippers, will recommend the greater sharing of costs by non-Federal interests. That portion of the bill does not set up a mechanism to enforce the Commission to decide what fees will be levied or how much they will be.

Users of the major ports, including those which might be deepened for coal exporting, we feel, can afford to pay for more than 50 percent of the O&M costs for these ports.

The benefit to cost ratios computed by the Corps of Engineers for deepening major coal ports have ranged from 2:1 to 9:1. With such alleged savings, each port should be able to repay its own construction and O&M costs without help from other ports.

In addition, according to the CBO, only a few deepened ports would be necessary to satisfy future demand for U.S. coal exports.

Senator ABDNOR. You have exceeded the 5 minutes. If you can kind of summarize?

Ms. LANCELOT. That is pretty much all I have to say. The CBO did mention that if all 13 major coal ports handling over 10 million tons a year were to expand their capacity, the capacity would exceed projected demand 2.5 times. We are simply saying user fees must be enacted, the port user must realize that they will pay for underutilized ports.

Senator ABDNOR. Thank you. I appreciate it, and the last witness?

STATEMENT OF FRED L. SMITH, JR., DIRECTOR, GOVERNMENT AFFAIRS, COUNCIL FOR A COMPETITIVE ECONOMY

Mr. SMITH. I am Fred Smith, Jr., director of Government affairs for the Council for a Competitive Economy. The council is a national membership organization of businesses and individuals concerned with promoting competitive business policy. The council is the free market lobbying organization in Washington. We advocate greater reliance on the market system and thus favor a reduced Federal role in the provision and maintenance of ports and inland waterways. We believe the financing resources in the current bill are unfair and would encourage major inefficiencies. The Simpson amendment narrowly defeated earlier by this committee, represents a preferable approach.

Let me list some of my qualifications. As an economist with the U.S.E.P.A. and the association of American railroads, I have been

involved with user charges now for over a decade. I am one of the Nation's experts in that area.

My testimony briefly surveys the case for user charges, critiques the current bill and then discusses the political problems that have blocked progress in this area. The headlines in the Washington Post today indicate the politics of special-interest legislation are alive and well. The paper noted a decision to reduce cost-sharing requirements in water projects.

The advantages of user charges are well known to their committees, and I won't belabor them. Adam Smith said it pretty well back in 1776. He pointed out that there was no reason why the costs of ports and canals should be borne by the taxpayer rather than the user. Smith pointed out that user fees provided an effective way of doing that—a way that was also fair and more equitable. Let me just quote Smith just once. He noted that a user-charge-financed system was far more likely to yield social returns: "When—canals are [financed by user charges], they can be made only where that commerce requires them." That is, unless Government investments are required to meet a market test, we are never really certain that we are going to get any value from them.

My own childhood in rural Louisiana provides pretty strong evidence to support Smith's observation. Shortly after World War II the Corps of Engineers constructed, apparently at the bequest of the powerful legislative representatives of Louisiana, a canal system linking Bogulusa to the intracoastal canal system. That system required three locks, and my father became lockmaster of lock No. 1 some 10 miles north of New Orleans. The Pearl River system was opened with great enthusiasm with the shipment of one bargeload of paper products from Bogulusa. To my knowledge, that shipment was the last commercial shipment that ever came down from Bogulusa. Some sand and gravel was barged out, and my brothers and I had to help my father open and shut the gates to keep the gears from locking up, but we didn't get many barges. As Adam Smith noted, when politics determines how money is spent, it sometimes gets wasted. I enjoyed my childhood; rural Louisiana is a nice place to live, but I don't think the private benefits I derived offset the costs borne by the American taxpayer.

I think that is the kind of concern that Mr. Lehman was indicating earlier. If users want to bear a cost, they want to make sure they are getting something for it, that they are getting more productive waterways.

There is some concern that this be done in a regional specific way. We ought to charge on a facility-specific basis. Canals, locks, ports should each be separately accounted for; their costs and revenues separately accounted for. If we did that, we would have a much greater reality test; we would get a much more effective utilization of user charge policies. The testimony by Mr. Lehman indicates that when all users are required to pay for everything, some of them will pay more than their fair share, but won't get much value in return. As a result, the moneys spent on waterways are being wasted.

The status of the waterway user charge initiative is well known. The administration came on strong in the early days. The President said:

When the federal government provides a service directly to a particular industry or to a group of citizens, I believe that those who receive the benefits should bear the cost.

We have seen a steady erosion of that position from 100 percent recovery to 70 percent recovery to whatever the current letter to Congress indicates in today's paper.

I think the Simpson approach, the attempt to try to at least reduce the nonuser contribution over time offers a step in the right direction, an encouraging step. It was only narrowly defeated. It certainly deserves reconsideration in the full Senate.

The problems we are dealing with in user charges have very little to do with economic analysis. They are political problems. We have known about user charges since Adam Smith. We have yet to implement user fees in any significant way.

The administration is long on Adam Smith ties, but short on those willing to argue for Adam Smith's policies. But we have some reason for hope. The administration still is concerned with costcutting. User charges offer one of the very few effective strategies in this area. This panel, a large number of other fiscal conservatives, and social conservatives, would be willing to help promote user charges. That effort could succeed if we could get some administration leadership. The President, after all, could veto any legislation not containing adequate user charges.

Senator ABDNOR. You have just a few minutes; we have to move along.

Mr. SMITH. The last optimistic note comes out of the business sector, so it is relevant to this committee. The Grace Commission, the President's private sector survey on cost control, identified user charges as one of the more promising areas to reduce waste in government. The Grace report has been favorably received in the administration, and has received a lot of publicity. Some one, or some group, however, is going to have to take those results out of the report and into political reality. I would hope that either Grace himself or someone in the administration might be willing to invest the time and energies to take that next step. If that happens, I am hopeful that this hearing will lead to some useful results, to a more effective national waterway policy. At very least, the Senate should enact the Simpson amendment.

Senator ABDNOR. Thank you. Do you have anything?

Senator MOYNIHAN. No, Mr. Chairman. I would just say to our friends that we understand your points. We are dealing in a real world. It would be very much a loss in the food chain. May I ask you a question, the answer to which is yes or no? Do you want to pass this bill, or don't you?

Mr. SMITH. No; I guess——

Senator MOYNIHAN. Come on, yes or no.

Mr. SMITH. I am sort of hamstrung on that question. Because there are some good things in the bill.

Senator MOYNIHAN. Next?

Mr. BLACKWELDER. I'm stuck, also.

Mr. CAMPBELL. Not without improvement.

Ms. LANCELOT. Not in its present form.

Mr. SMITH. Not in its present form

Senator MOYNIHAN. OK, you will get nothing. You will have long careers as lobbyists, so I can see you will be here many years.

Senator ABDNOR. Our next witness is Mr. Steven Van Dyck. Mr. Van Dyck, I am sorry you had to wait such a long while.

STATEMENT OF STEPHEN A. VAN DYCK, PRESIDENT, SONAT MARINE, INC.

Mr. VAN DYCK. Mr. Chairman, my name is Stephen Van Dyck. I am president of Sonat Marine, Inc. in Philadelphia. We are the country's largest independent marine transporters of petroleum and petroleum products in the continental United States. I am also chairman of the Transportation Institute's Towing and Dredging Council. The Transportation Institute represents about 170 companies on industry matters here in Washington.

We appreciate this opportunity to talk to you this morning. A lot of water has gone under the bridge since I last talked to you in June. I mentioned to you last summer that I felt like the fellow who got invited to lunch and was handed the check. I am pleased today to say that the cost of that check to us and our constituents has gone way down.

Senator ABDNOR. It is nice to hear something good come out of here.

Mr. VAN DYCK. We are very sympathetic to the difficulty of the issues which you are facing, and we have tried to be responsive to your request for specific and constructive suggestions. I think those 28 pages of written testimony that you have copies of deal with your request.

Senator, I would only like to make two informal remarks this morning. I think I might be able to help you and your staff to understand some of the issues that really still remain on the table.

The American-flag operators which we represent along the coast of the United States are going to be asked to still bear very considerable costs in this particular bill. For example, in section 106, there is some pretty specific language which entitles local non-Federal authorities or appropriate non-Federal interests to recover substantial costs from users of ports, and we think users as defined by the particular ports.

Now, there has been kind of a general acknowledgement or a general understanding that perhaps, in the case of port deepening, that applies to deep-draft vessels only. Perhaps that is true, but we don't think that is clearly spelled out in the bill, and maybe that can be looked at. Additionally, there is a lot more in port development and dredging cost than just deepening. Some of the witnesses mentioned there will be widening of ports. It is a little hard for us to figure out who is the beneficiary of, and who will pay for a widened port. It could also be that the local interest could decide on assigning that cost on the basis of the particular cargo carried, or on the width of the vessel. It might assign such a fee to only remote beneficiary users of the port.

We think the whole question with regard to the local assignment of beneficiaries is a very difficult problem. While I am reluctant to be negative this morning of all the efforts that you have made, we feel the bill in its current form still begs a very basic issue: Who

are the beneficiaries, and who are we really asking to pay? Rather than that issue being ventilated here and decided here, it is now going to be ventilated and decided all across the United States in port after port after port after port.

Let me give you an example. One of your constructive improvements was to limit the amount that nondirect beneficiaries would have to pay to 20 percent. We appreciate that improvement. We think it is an important improvement over the past bill. However, 20 percent on a \$500 million port development project is not a small number, \$100 million. Based on 25-year financing, there would be a \$12 or \$13 million annual interest cost alone to be borne by nondirect beneficiaries. The payers of that \$12 to \$13 million may derive no benefit whatsoever from the use of those particular facilities.

This morning you also heard testimony from various Senators and port interests who realize the practical problems of acutally collecting user fees. However, the non-Federal interests are going to have to get the money from someplace, so we are sure they will find a way to collect it from us. So, we think the definition of the beneficiary is still a very serious and difficult problem, and we don't think it has been adequately addressed in the bill. We would be happy to work with you and your staff to address that point.

One other quick point: Administratively, we are talking about a user fee collection process proposal which we think is unworkable. We are talking about public hearings; we are talking about attempts to tax vessels in hundreds of local ports; we are talking about significant taxes on companies, companies that already have investments in facilities that cannot be moved; we are talking about that for potentially every port in this country.

I am the representative of one shipping company in the United States sitting here before you this morning. I don't think you are going to see any others with regard to title X of this bill. On the other hand, you will have heard, by the time the morning is over, from 14 different people representing various ports. I would suggest to you that there is a tremendous interest out there on the part of port people in port development. These are people who would take advantage of the opportunities that this bill provides, and tax people like ourselves to limit what your bill provides, so as to feather their own nests. Jones act operators like us have been doing a very productive, efficient job of serving this country's economic needs for a long time, and we think this bill puts us in a position to be taken severe advantage of as it is currently written. The interests of the ports are not the same as the interests of vessel operators.

Those are just two of the issues that we would like to continue to work with you and your staff on. We recognize the difficulty of the problems. We are very sensitive to the crunch of the Federal deficit. However, we feel if we cannot resolve some of these definitional problems, we are in a position where the American-flag coastal operators will not be able to survive if the bill is passed.

Let me close by saying if you have any questions, I would be happy to try and answer the easy ones, and Mr. Luciano would be happy to answer the hard ones.

Senator ABDNOR. You have touched all bases. We appreciate your testimony, and I know your statement goes into much more detail. I assure you the committee will look at it. There may be questions submitted to you in writing. We may talk to you personally on the problem.

Senator Moynihan.

Senator MOYNIHAN. I very much agree and thank you, Mr. Van Dyck. We understand, and if we don't legislate, things are going to get worse, and if we do legislate, we have to do something that is less than wholly acceptable to everybody involved.

I mean, we just don't have that option. We are just trying to get our ports working again.

Mr. VAN DYCK. Senator, I think I might just close with a comment that Senator Randolph made when he said that one of the primary beneficiaries—he was here this morning right before you arrived—one of the primary deficiencies of the deepening of the Port of Hampton Roads, which he is concerned about, is the State of West Virginia, its people, its taxpayers, and so on. I think that really makes the point that we are concerned about.

There are a lot of beneficiaries out there in this system. However, everybody seems to be turning to us—I guess it is 14 to 1—and saying we ought to carry this major burden on these fees. We think there are other specific beneficiaries.

Senator MOYNIHAN. May I make the point that we have just exactly that in mind, but we continue to have a large general revenue provision for operation and maintenance and a gradual increase in users costs. It is a mixed system because there are mixed benefits.

How, exactly, you allocate them I don't know. I don't suppose anybody ever will know, but we are just doing our best.

Mr. VAN DYCK. I understand that, and I know we all appreciate that. I do know that we like to look at projects on a businesslike basis. I think when you look at the coastal port system of the United States, they generate substantial annual revenues. I understand maybe it doesn't go in the same pot, but as a business entity, those ports have been successful and the payback on investment has actually been quite high, perhaps 16 to 1 in terms of the Federal dollars input versus benefits received.

We are happy to talk about the cost side. But, we feel there ought to be some consideration on the revenue side, as well.

Senator MOYNIHAN. A fair point with which you have no disagreement in this committee.

Thank you very much, sir.

Mr. VAN DYCK. Thank you, Senator. Thank you for the assistance on the spill cleanup.

Senator MOYNIHAN. We will charge that to the Superfund.

Senator MOYNIHAN [presiding]. Next is Mel Shore who is the director of the Port of Sacramento. Mr. Shore, have you been so patiently waiting? We welcome you, sir.

STATEMENT OF MELVIN SHORE, DIRECTOR, PORT OF
SACRAMENTO

Mr. SHORE. Thank you, Mr. Chairman. My name is Melvin Shore. I am the director of the Port of Sacramento. I came here particularly to thank the chairman and the committee on three counts: First, for the dedicated effort that has been put forward and the leadership that has been shown to try to break the 8-year lodge that has taken place in the development of the port system; second, for adopting a concept of the O&M commission that is included in title X. I think going through this concept with careful and thoughtful consideration can be given to the ideas of how to generate additional funds if, indeed, that is necessary and the fact that it is to report back to Congress, I think, is also important.

Congress has that responsibility. I think this title X recognizes that. I would like to thank the committee for the deep draft project in its list of authorized projects.

The chairman has asked for specific comments on the bill, and I have just one.

Mr. Chairman, the area of what is referred to in the bill as general cargo ports calls for a 30-percent participation by the local entities. I would urge the committee consider a maximum of 20 percent in view of the fact that relative value to the Federal Government and to the local people of this joint venture, and I use the term advisedly, a joint venture would be more appropriately divided at the 28-percent level rather than the 37.

In addition to that, I would point out that Sacramento is quite a typical situation, and in this particular case, we would be asked to put out some \$17 million under the existing local cooperation. Thirty percent would require us to come up with an additional \$10 million. Also, essentially, we have the available funds to take care of the building of land-side facilities to compliment the channel work.

To go to the 30 percent would deprive us of that capability, and we would urge then that the committee consider setting a maximum of 20 percent local participation.

Finally, Mr. Chairman, I would urge you to keep the bill moving. I think that it is yeoman's work that you have done, and it is urgent that we bring it to an early conclusion. I would be happy to answer any questions that you have.

Senator ABDNOR. Thank you, Mel. This gentleman has an excellent background.

How many ports do you think share your views on this?

Mr. SHORE. I think a surprising number, Mr. Chairman. You heard from the coalition earlier today, and I had very little to find fault with them. As you know, at one point in time, I was the leader of the opposing, if you want to call it that, of the original coalition, which predated them. I find very little to find differences with them.

I think we will hear from a few ports following me that have different points of view, but I think all of us believe that we have to break this deadlock.

We cannot continue.

Senator ABDNOR. I know you are very much aware of differing views and the controversies we have in the differing proposals. Do we feel that we are getting closer to a consensus of most of the ports?

Mr. SHORE. Yes, sir, I think we are. We are very definitely moving in the right direction. I am not going to sit here and suggest to you that you have millenium in the bill, because I don't think you do. But I think we are getting closer, and that is important.

Senator MOYNIHAN. Thank you, sir. Thank you very much. It means we have worked hard at this, and it is not in the nature of accommodating an enormous range of conflicting interests that you can satisfy them entirely, but we think we have to do something. It is very encouraging to have you come across the country to tell us that we do something.

Mr. SHORE. We heartily agree with your position, Senator.

Senator ABDNOR. Thank you.

Senator MOYNIHAN. Come again.

Senator ABDNOR. Next we have a group to represent the Northeast, Midwest, Great Lakes. If they would come forward and introduce themselves?

I don't know which one of you gentlemen is the spokesman, but if you will introduce the panel and then proceed.

STATEMENT OF GEORGE J. RYAN, PRESIDENT, LAKE CARRIER'S ASSOCIATION, ACCOMPANIED BY ADM. ROY F. HOFFMAN, PORT DIRECTOR, PORT OF MILWAUKEE; AND CHRISTOS KRITIKOS, GREAT LAKES TASK FORCE

Mr. RYAN. Senator, my name is George Ryan, Lake Carrier's Association. I think we bring diffuse, although from the same sector, views, and Admiral Hoffman is on my right and Mr. Christos Kritikos is on my left. Let me see if Admiral Hoffman wants to start things off.

Mr. HOFFMAN. Yes; I am Admiral Hoffman. I am the port director of the Port of Milwaukee. I am speaking on behalf of the U.S. ports of the International Association of Great Lakes Ports. That would include: Oswego, Buffalo of N.Y.; Erie, Pa.; Cleveland, Lorain, and Toledo, Ohio; Detroit and Monroe, Mich.; Duluth, Minn.; Superior, Green Bay, Milwaukee, and Chicago.

Mr. Chairman, we are opposed to Senate bill 1739 because title X of the bill does not address the unique and extremely debilitating coal system on the Saint Lawrence Seaway. Also, we are not convinced that the creation of a national commission on harbor maintenance is going to be timely nor responsive to the current backlog of operation and maintenance requirements on our Nation's deep water navigation systems.

Further, we have no assurance that this proposed special commission would be any more responsive to our plea for Great Lakes equity than the current Federal review of infrastructure.

We are not opposed to the title X concept of Federal cost sharing for construction of deep draft and general cargo hardware improvements, and we support the fast-tracking project authorization and permitting procedure of the bill. I am not going to reiterate the his-

torical development of the politically driven concession of why we have these high tolls today. I think that Senator Proxmire, speaking for six additional Western Great Lakes colleagues, testified adequately on this subject on June 17 before the Subcommittee on Water Resources.

However, I do want to emphasize the negative impact of these exorbitant tolls and how they have denied congressional and national expectations of seeing the Great Lakes-Saint Lawrence Seaway system develop into a truly efficient and competitive international navigation system.

I think you are aware that those tolls have doubled, in fact, 128 percent since we had the double inflation figures of 1978. There is no question that it has been devastating on the international tipping of the seaway system. Since those tolls have doubled, we have also seen the decline of international commerce by better than 50 percent. Those toll increases were necessary even though the Merchant Marine Act of 1970 relieved the Great Lakes of open cooperation of paying interest on the construction debt, and also, Mr. Chairman, I am well aware of your efforts of getting the remaining construction debt relieved on the seaway in 1982.

But despite these concessions, the GAO has reported that the revenues projected for 1983, and the final report is not in yet, but it will be less than what the O&M costs were. Thus, it appears we have reached a point of diminishing returns, I don't know. I think probably the biggest thing that I don't understand is that while people really don't understand how much we are paying today on tolls, it is 83 cents on grain, 83 cents a ton. We are paying \$1.16 on container cargo and other bulk cargo. Gentlemen, we are paying \$2.56 a ton on general cargo. In other words, International Harvester, Caterpillar, and so forth, everything they are shipping out of there, it is costing \$2.56 a ton to get it out of there. It is not uncommon for a general cargo ship coming in from the Atlantic, from Chicago and return, to pay \$100,000 in tolls alone. That does not include piloting or anything else, but tolls.

But in another way, a feeder service that we have been working on to get that feeder service established, the tolls alone would account for 3.6 of the total operational costs of operating that feeder service from Lake Michigan to Halifax, for example, 3.6 percent.

Now, in an industry that is notorious for operating at less than 10 percent return on its investment—and I think the bankruptcies that are prevalent all over the northern atlantic attest to that—when you are getting less than 10 percent return on your investment, you have to pay 3.6 on tolls, and your total cost and that includes the debt service on the vessel and the equipment, it's readily apparent why our international commerce on the Great Lakes is diminishing to zero.

This loss of U.S. maritime revenues are not limited to the Midwest. We just completed a total review of all cargo carried in the Middle Western States west of Lake Michigan, eight States, and we came up with 4.4 million short-tons of general cargo. This is high value cargo. Now, 1.6 million tons, or 36 percent of that Midwest cargo, was moved by intermodal means to the Port of Montreal. That is a tremendous loss to the entire U.S. transportation industry, including the U.S. truck and railroad movement.

Obviously, much of that so-called diverted cargo came from the Atlantic coastal ports, Central, and Northeast.

As we previously stated, the Great Lakes supports a Federal cost sharing program for operations and maintenance and improvements of the Nation's deep water navigation system, consistent, however, on the following provisions: That the Federal Government does maintain control of the navigation system. That is particularly important on the multistate international system; a value based national uniform user fee, and elimination of the tolls on the Saint Lawrence Seaway and integration of the seaway into a single, nationwide navigation system.

You have been generous with your time. I won't go into anymore detail, but I want to say this: We are not opposed to a user fee system provided it is on a one fee, one system basis. That is all we want, equity.

Senator ABDNOR. Let me ask you: This isn't going to cure your problems if we don't have a bill. We are not tampering with that end of it. We want a bill. As you said, we made some progress. You want us to eliminate all the tolls on the Saint Lawrence Seaway?

Mr. HOFFMAN. You can't do that immediately, because you have to coordinate with the Canadians, but I think 865 had a fix in there that will work, to set up a coordinating effort. It can be done in this bill, as well; set up a coordinating effort with the Government in Canada. There are a lot of people in Canada that would like to see those tolls eliminated also and go to the user fee system.

Senator MOYNIHAN. I want to thank the admiral. There is a real problem. I can't see that our bill in any way makes it worse. I would have to grant that perhaps our bill does address it, and that is something we can talk about.

I thank you very much.

Senator ABDNOR. Thank you.

Mr. RYAN. The Lake Carrier's Association does not have much of its traffic down the seaway, so we do not associate ourselves with any of the comments made by Admiral Hoffman. Our business is in the Upper Lakes, and our members carry 97 percent of the U.S. domestic cargo to U.S. ports on the lakes. Your bill has made great strides in moving forward.

One of the elements that I feel is missing, though, is in providing a tool that will help the commission make a decision on the level of user charges that might apply for maintenance, and that is, a proper economic impact study. Since your hearings last year, the EDA study on economic impacts has been released, and it shows us some very dangerous trends. That report states that the port and shipping industry, and the hinterland industries would experience declines in sales, employment, and income as a result of the user tax proposal. The customs duty collections and State and local taxes would decline, and that our commodity balance of trade would also decrease because the value of the exports would be greater than the decrease in the value of the imports.

I believe this economic impact study has to be taken into consideration particularly for a commission where all of the members of that commission are appointed by the administration and might have some biases in favor of a user tax. Without the facts of an economic impact study, they might be led to an improper conclu-

sion. I believe we would approve if such a commission would be authorized to conduct a national and region-specific economic impact study.

Another area I feel should be considered in it for the Great Lakes is the Great Lakes connecting channels, the Saint Marys, Saint Clair, Detroit River system is an international waterway and is used by Canadian ships, United States ships and Canadian ships and the international ships Admiral Hoffman spoke of.

This system is not in the control of the State of Michigan or any local port authority. The bill seems to address port authorities or State governments. I believe that these connecting channels should be exempt from any requirement of payment for O&M, that they should, in fact, continue to be maintained by the Federal Government because of the international channel aspects.

Last, I would like to mention something that is not in the bill, which we are very pleased to see, and that is, there is no provision to seek year-round navigation on the lakes as in a similar House bill. We believe it would not be appropriate to have year-round navigation.

Our members have pioneered in year-round navigation on the lakes, we have been experimenting with it for a number of years. We find it to be extremely costly and that short of a national emergency that it is not necessary. So we are pleased there is no provision for year-round navigation on the lakes, although we do fully support extended navigation sailing through the Sault Ste. Marie Locks as we are doing now.

Senator ABDNOR. Thank you. I think you have given us some important thoughts.

Senator MOYNIHAN. Mr. Chairman, I think that the international nature of the waterways such as the Detroit River is a real question that we have to look at. We thank you for that. I think that had not occurred to us, well, a lot of things had not occurred to us. That is why we have these hearings, and we thank you.

Mr. KRITIKOS. Mr. Chairman, my name is Christos Kritikos, president of CERES, Inc., which, for more than a quarter century has provided stevedoring services in 29 United States and Canadian port locations. We operate at seven U.S. ports on the Great Lakes.

I am speaking today on behalf—

Senator ABDNOR. Can you pull the mike up?

Mr. KRITIKOS. I am speaking today on behalf of the Great Lakes Task Force, a coalition of States, ports, unions, and maritime industries which, for two decades, has provided an essential coordinated voice for maritime and shipping interests on the Great Lakes-Saint Lawrence Seaway system. The Great Lakes Task Force membership includes the American Marine Officers Service; the Great Lakes Association of Stevedores; the Council of Lake Erie Ports; the International Longshoreman's Association (AFL-CIO) Great Lakes District; Lake Erie Coal and Ore Dock Council, Marine Engineers Beneficial Association (Great Lakes District), Transportation Institute and the eight Great Lakes States of Illinois, Indiana, Ohio, Michigan, Minnesota, Wisconsin, New York, and Pennsylvania as represented by the Great Lakes Commission.

We are concerned with the proposed deep draft user charge legislation and have specific recommendations for provisions that should be included in Senate bill 1739.

The Great Lakes Task Force has the following position on deep draft user charges: The Great Lakes-Saint Lawrence Seaway system should be exempt from all added user fees so long as the present and existing tolls continue to be imposed upon United States and Canadian seaway locks.

No. 2, as part of any deep draft user charge legislation, there must be an extension of the Great Lakes navigation season of up to 10½ months and up to 10 months on the Saint Lawrence Seaway.

We have serious concerns over user fees for both the Nation and specifically, for the Great Lakes. It is important to realize that shippers to the Great Lakes have been paying user fees for 25 years. Tolls on the movements of both the deadweight transit of vessels and their cargoes have been a fact of life for the shippers through the seaway for a quarter of a century. Because the seaway system has been burdened by tolls while no other deep draft waterways in the United States have been charged, it is our position that the Great Lakes seaway system should be exempt from all added user fees so long as the presently existing tolls continue to be imposed on the seaway users.

The study by the U.S. Department of Commerce on the economic impacts of a 25-cent-per-ton user charge on deep-draft shipping indicates that the fee would indeed return revenues to the Federal Government. However, perceptible negative impacts would occur not only to port and shipping interests, but also to the hinterland and to the Government itself. For industry it would mean declines in sales and accelerated unemployment. Custom collections would be curtailed, as would Federal, State, and local income taxes, along with direct and indirect business taxes.

Moreover, since U.S. exports would suffer to a greater extent than U.S. imports, user fees would result in a negative impact on the U.S. balance of trade.

A recently completed study on the impacts of user charges on Great Lakes shipping concluded that charges on domestic shipping only could cost shippers up to \$46 million annually.

The findings of these two studies demonstrate that the Great Lakes region can be expected to experience the most severe economic losses, relative to other U.S.-port regions, from imposition of deep draft user charges. In light of this, we cannot support user charges. However, if they are imposed, the legislation should eliminate seaway tolls.

Currently, the Seaway is closed to navigation during a 3½-month winter period from December 15 to March 31. The locks at Sault Saint Marie, which connect Lake Superior to Lakes Huron and Michigan, are closed for approximately the same period of time.

The present 8½-season seriously inhibits international trade from the Great Lakes region because it requires that shippers and traders must reroute their freight movement to coastal ranges early in the fall and retain these alternative movements into the spring, creating the necessity for and the excessive costs of dual shipping schedules and routings.

Extension of the navigation season has been a consistent priority of the Great Lakes Task Force since the congressionally funded multiagency Winter Navigation Board was formed over a decade ago. Chaired by the Corps of Engineers, the Winter Navigation Board determined that a substantially extended shipping season was not only environmentally safe, but also engineeringly feasible for the Great Lakes seaway system and would have substantial benefit for the entire Nation.

Unfortunately, environmental interests succeeded in blocking further investigation of an extended season and the extended navigation season issue was essentially laid to rest.

We support an incremental extension of the navigation season of 10 to 11 months on the Great Lakes and up to 10 months on the Saint Lawrence Seaway. However, we recognize that such an extension should proceed only if it is cost effective and that adequate environmental studies should be completed prior to implementation of any extension.

To accomplish the necessary studies and establish the framework for such an incremental approach, the Great Lakes Task Force urges legislation that would establish a Federal coordinating board comprised of the Saint Lawrence Seaway Development Corporation; Secretary of the Army; Department of Transportation (Coast Guard); and the Department of Commerce (NOAA) to oversee implementation and to report to Congress on both the status of implementation and the environmental studies. Such a board would also be charged with coordinating this program with Canadian Government agencies and with international agencies such as the International Joint Commission.

I appreciate this opportunity, Mr. Chairman, to voice the concerns of the Great Lakes Task Force on deep draft user charges to the Subcommittee on Water Resources. I would welcome any questions on these critical issues.

Senator ABDNOR. I thank all of you gentlemen for coming from so far away to testify and giving us the benefit of your views. We have your statements; they will be placed in the record. I just want to say, we are not, in any way, imposing a users charge. We are calling for a commission to review it. I think I am correct that the legislation calls for that beyond the Great Lakes, does it not? There is nothing that says that that is what it is going to be.

We have differences of opinions on this extension of time. It is great saying that it is all going to pay for itself, but you are asking us to drop tolls and in the next breath you are telling us to add more improvements.

This, of course, is the great dilemma we find ourselves in right now. Someone has got to pay. I see you have your hand up, Admiral Hoffman.

Mr. HOFFMAN. Yes; I think our testimony was clear that we have no difficulty with paying a user fee on the operation and maintenance or improvements, either one. What we are pointing out is that we are paying four times the fee required for 100 percent recovery of O&M right now, four times by the Department of Commerce figures.

Senator ABDNOR. What did we accomplish for you when we eliminated all the debt?

Mr. HOFFMAN. That was a step in the right direction.

Senator ABDNOR. How big a step do we have to take? That was quite a step. How many millions are we talking about? I guess it is how far are we going to go. Every group comes up here and says, you paid it off for that group; pay it off for us.

It is tough going because we don't have the money now. Somewhere you have to show a consistency. Believe me, I think if I had raised my hand on this, I could have caused a lot of problems in Appropriations because that was not well looked at in relation to how other parts of the country would look at it.

All I am saying is we are not imposing anything. Maybe it is something we have got to look at, and we are happy to have your views on this.

I am sure Senator Moynihan, particularly, is going to be vitally interested in this. We are going to give it, certainly, a review and look it over and see how the community reacts to it. We thank you very, very much.

Mr. HOFFMAN. Thank you, sir.

Senator ABDNOR. Is Mr. James Kelly here from the Delaware River Port Authority? Mr. James Kelly, are you here?

Mr. KELLY. Yes, sir.

Senator ABDNOR. Good. You have been very patient.

STATEMENT OF JAMES R. KELLY, PRESIDENT, DELAWARE RIVER PORT AUTHORITY, ACCOMPANIED BY WILLIAM A. HARRISON, EXECUTIVE DIRECTOR, THE PHILADELPHIA MARITIME EXCHANGE; JACK GALLOWAY, GULF OIL CORP.; JOHN J. MALONE, PRESIDENT, PHILADELPHIA PORT CORP.; P. L. CHAPLES, DIRECTOR, PORT OF WILMINGTON; AND ROBERT L. PETTEGREW, EXECUTIVE DIRECTOR, SOUTH JERSEY PORT CORP.

Senator ABDNOR. You are the president of Delaware Port Authority?

Mr. KELLY. Yes, sir, and I have some colleagues that I would like to introduce to you. The good news, Senator, is that we will not all speak, but the bad news is that I will.

On my left I have William Harrison, who is the executive director of the Philadelphia Maritime Exchange, representing the private sector of our port area; also to my left is Jack Galloway of the Gulf Oil Co., one of the prime tenants on our riverfront with refinery facilities, who will speak to you; to my immediate right is the president of the Philadelphia Port Corp., John Malone; next to him is the director of the Port of Wilmington, Phil Caples; and finally, Bob Pettegrew, the executive director of the South Jersey Port Corp. Mr Pettegrew also has a statement which will be submitted in writing to the panel, sir.

We commend and thank you for the leadership that you have provided in bringing forth S. 1739. We believe it is a great step forward for the ports of the country. However, we do have some criticism of the bill, and we would like to point those out to you at this time.

We oppose, for example, the creation of a National Commission on Harbor Maintenance, because it is constituted in a manner

which virtually guarantees that user fees will be recommended for maintenance of existing channels.

Second, we oppose the \$350 million cap on Federal harbor maintenance expenditures. Our opposition is derived not only from the belief that the \$350 million is inadequate for the anticipated expenditures in 1984, but also from our longstanding opposition to any action which would result in the Federal Government abrogating its 200-year agreement to provide for channel maintenance.

Under Senate bill 1739, the National Commission on Harbor Maintenance is to be formed and composed of the Secretaries of Army, Treasury, Transportation, and the Special Trade Representative with a chairman appointed by the President. The Commission is directed to report to Congress in 2 years its recommendations on the level of recovery of harbor maintenance costs along with the method of collecting these costs from the ports or shipping companies.

We feel that stacking a commission with administration appointees and charging them to report back in 2 years on the level and means of recovery of harbor maintenance costs assumes that user fees should be imposed for maintenance costs and sets the stage for user fees on O&M.

The only open questions under the committee bill are: How much of the O&M costs should be covered by user fees, and how the fees should be collected?

The Delaware ports do not believe that the Commission should begin on the premise that user fees should be imposed on O&M. We believe that the question of whether there should be user fees on maintenance has not been resolved.

In short, we oppose creating any commission on this subject because the issue of fees for O&M is better decided by the Congress.

However, if Congress decides that there must be a commission, it should be composed of those who use the ports and who are best able to analyze the potential impact of user fees. Its members should be representatives of shippers, carriers, and the ports, especially those ports with high O&M costs such as our own and perhaps the Secretary of the Army. The shippers, carriers, and ports should have direct input and not be relegated to an advisory capacity with little or no voice in the Commission's decision.

The chairman of the Commission should be selected by the members—those who are closest to the situation.

The mandate of the Commission, if there has to be one, should be to decide: Whether there should be any user fees for O&M, and, whether the O&M for existing channels should be exempt, if user fees are recommended.

Let me turn to the matter of the \$350 million cap on harbor maintenance. For over 200 years, and the local interests have been in a partnership with the Government which has resulted in the development of a very viable national port system benefiting national and commercial interests. Under this longstanding arrangement the Federal Government provides maintenance for the channels and local interests provide the shoreside facilities.

We are opposed to the proposed \$350 million cap on spending for harbor maintenance because inadequate funding of Federal maintenance abrogates this longstanding agreement and ignores the

past, present, and planned contributions made by port communities, shippers, businessmen, as well as local and State governments.

In addition, this action places in jeopardy the substantial investments which have been made on the short side in reliance on this agreement. More than \$1 billion has been invested in our area in port shoreside facilities, not counting the major investments made by water-related industries of the private sector.

We have projects totaling about \$75 million currently under construction in our port, and another \$100 million of new facilities being planned.

If you only provide adequate money to dredge the Delaware River to 39 feet instead of its current 40-foot depth, for example, the carrying capacity of a 60,000 deadweight ton bulk carrier, for grain exports which is very typical on our river, would be reduced by 2,500 tons. That would increase the cost of transportation by about 5 percent for grain. The same thing would happen in the case of ore, a 2,500-ton reduction would increase the cost of the delivery of coal for steelmaking by 5 percent, thus increasing the cost of steel products to the Nation and to the world.

One of our major oil companies, Gulf, would inherit an additional \$10 million in lightering costs a year if the river were dredged 1 foot less than it is today. We have seven major refineries on the river, so we are talking in terms of some \$70 million of added costs for those companies alone.

Maintaining the existing U.S. port system is critical to the orderly functioning and competitive position of the U.S. trade activities. Proper maintenance of the channels of the Delaware River does not solely benefit local users, but instead, benefits the entire Nation.

Our port supports 7 major refineries, 10 major chemical manufacturers, a major steelmill, 3 gypsum manufacturers, 4 major food processors, a Navy yard, and many other water-related industries. Scanning this list, the national interests served by our port becomes apparent. Our businesses supply consumers throughout the Nation. Imported oil, for example, is distributed to consumers as far south as North and South Carolina and as far east as Maine, all of New England and as far west as Illinois.

Products passing through our terminals originate in the Midwest; grain coming out of the Midwest passes through our terminals on the Delaware River, and the Navy yard, located in our port area, is an important part of the national defense system.

Equally important, the Federal corporate taxes received from our industries alone produce a net gain to the Federal Treasury when stacked against the national annual maintenance costs for ports.

We oppose the stacked commission and we oppose the capping of Federal O&M funds. We believe it is counterproductive to limit user fees for existing O&M, and we cite the Department of Commerce's recently commissioned study, which has concluded that a 25 cent fee which would produce the amount needed for O&M, in 1983, \$337 million, would not result in a net increase in revenues to the Federal Treasury.

On the contrary, such action would result in corresponding losses to the economy that could reach \$424 million. This deficit would be caused by such things as losses in direct sales; income of shippers,

carriers, and ports, and the tiers of their suppliers which support these industries. There also would be declines in Federal, State, and local income tax, as well as direct business tax collections, and lower customs collections.

The study also points out that the user fee could possibly cause a loss of about 10,000 jobs and some 10 million short tons of cargo as a result.

Therefore, Mr. Chairman, we do support and thank you for the efforts that you have made with this bill, but we hope you will take into consideration these two points that are of great concern to us.

Mr. Chairman, I would also ask that you allow Mr. Galloway, who is from our private sector, to address your panel.

Mr. GALLOWAY. Thank you, Mr. Chairman. You have our statement of the Maritime Exchange of Philadelphia that has been distributed to you. In the interests of time, we won't bother reading from our statement. We merely want to emphasize the importance of moving forward in this area so that the capital investments in the shore-side facilities by our private users of the port might come within the next few years. This is particularly to a place such as Philadelphia where we so badly need capital investment.

Senator ABDNOR. Thank you.

I guess I have never been aware that I have abrogated any treaty or agreement. Where do you go back to that precedent? Is that the idea here, or what?

Mr. KELLY. Yes.

Senator ABDNOR. I think the President of the United States and everybody in the administration must not know about it, either, because after 3 years of hearings and trying to get together, we are going beyond, they would like to have us do it at the White House. We have come up with this; to come up with a proposal, but they may not even buy it.

So let me ask you a question. You fellows, if this is the only bill you could get, would you rather not have any bill? Let me ask you.

Mr. KELLY. Sir, with the exception of the items that we have mentioned, we certainly support the bill. We are here to request that the bill is amended to take into account the considerations that we mentioned.

Senator ABDNOR. Mr. Galloway, are you part of that sector that is going to raise heck about the big deficits the Government has got? Is that of concern to your company at all, or what?

Mr. GALLOWAY. It certainly is. The amount of the Federal deficit affects our company, as it does the private sector in general.

Senator ABDNOR. Since we passed this legislation, this deficit thing is really coming into issue, and I think we heard today a number of witnesses who said we ought to have the Simpson amendment in, which is not in there. But that is the attitude and moods of a lot of people in this Congress right now.

As a matter of fact, that proposal that I continued failed by a tie vote; that is how much it missed by in this very committee dealing with the water, let alone what is going to happen when we get out of here with interest all that great at a time like this. I guess I am just wondering, you know, if inland water people would like to have us index all the figures we have in their bill. We are not doing that. This one we did do.

I guarantee you it was a little higher this year, because that was because it was a jobs bill. And we carried on some deferred projects. All I am saying is this committee can't be any more generous and get a bill passed. There are an awful lot of people who are interested in seeing some movement on the port and water bill, particularly.

Mr. GALLOWAY. Senator, we certainly thank you for all the efforts you and the other committees have made, and Congressman Roe and his colleagues in the House, too. We want to be supportive, but at the same time we have tried over this entire period to continually remind you of what we in Philadelphia perceive as a possible grievance with the Federal Government. It is with the collection of customs and in connection with the establishment of a national port system.

We have brought these items to the attention of this committee and other committees over the last several years. Since the collection of customs in Philadelphia generates over \$200 million a year; since the O&M for that port is less than \$30 million a year, it has been our strong suggestion that there has to be some ability to equate those two and find a way to continue our traditional O&M.

Our port does not seek any new capital programs. Our port does not seek any deepening. Our port merely seeks to continue in its present form with the traditional Federal involvement.

Senator ABDNOR. The only thing I can say, Mr. Galloway, is I have had a gentleman here from the Finance Committee, and the Budget Committee. It is going to be very difficult to say that money from customs is going back into ports.

However, we are very much aware of the problem. We have got a lot of problems. I guess in the next few weeks, we have got to analyze and go through this. I hope you will feel free to let us call on you if we have added questions in the exchange here, because we are trying to come up with something that, in the final analysis, is going to be what is best for all concerned, and it will be to the best of our ability to do it.

It is apparent to one and all that we are certainly not going to have everyone happy with what we do. We will do everything we can do to be fair and will probably take a broad range of problems and considerations into account and come out with our final version.

I thank you all for being here today.

Mr. KELLY. Thank you.

Mr. GALLOWAY. Thank you.

[Luncheon recess.]

Senator ABDNOR. The committee will come back to order.

Mr. Cocchiara has now arrived, and Mr. Nelson, we appreciate your being so patient. Maybe you are better off; we are fresh now and you can sit back and relax.

We know you don't have an audience. Please note that we are just as interested in what you have to say.

STATEMENT OF JOSEPH COCCHIARA, EXECUTIVE DIRECTOR, GOVERNOR'S TASK FORCE ON DEEP DRAFT VESSEL ACCESS TO THE LOWER MISSISSIPPI RIVER, STATE OF LOUISIANA, ACCOMPANIED BY CHARLES W. NELSON, VICE PRESIDENT, WAL-DEMAR S. NELSON & CO.

Mr. NELSON. Would you care for me to lead off?

Senator ABDNOR. Either way you want to. We have a lot in common here.

Mr. NELSON. Yes.

My name is Charles Nelson. I am here on behalf of the Plaquemines Port Harbor and Terminal District from the State of Louisiana. I had suspected I would be speaking after Mr. Cocchiara, so I made reference to the study for which he is the executive director. This is the Louisiana Governor's Task Force for Deep Draft Vessel Access to the Lower Mississippi River.

One of the recommendations of that study was that while deep draft legislation was worked out, that private industry should be encouraged to provide topping-off facilities at the mouth of the Mississippi River or in the Gulf of Mexico in order to attract trade to the region until river dredging can be accomplished.

In November 1983, a feasibility study for such a project was completed for the Plaquemines Port Harbor and Terminal District. This project is known as the South Pass bulk top-off terminal, and it is seen as a project that can serve the near-term needs of the ports of the central gulf coast region and the entire Mississippi River Valley.

For those of you who are not familiar with the geography of south Louisiana, the last 80 miles of the Mississippi River and its various tributary passes are within the boundaries of Plaquemines Parish. The Plaquemines Port Harbor and Terminal District is the local authority which would benefit immeasurably by the deepening of Southwest Pass and this lower 80 miles of the river, which is the gist of your legislation.

We will be responsible for the local share of the planning, capital, operating, and maintenance and the telephone relocation costs.

The deepening of the Mississippi on the scale proposed by the Corps of Engineers will require considerable expenditures for construction and maintenance. If significant non-Federal funding of this project via overly high user charges is required, it is unlikely that a consensus on moving the project will be reached very quickly.

Yet the need to act is pressing. The latter years of this decade will see a resurgence in the growth of the world coal market. Any chance the United States has to maximize its participation will rapidly diminish as trading practices develop over the next 2 to 3 years. There appears to be a need for a strong interim project that would be low in cost, environmentally acceptable, and which can be quickly implemented.

The unique geography of the lower Mississippi delta within Plaquemines Parish offers the possibility to provide such an interim project for the ports of the gulf coast. The project calls for the construction of a new harbor adjacent to the mouth of the South Pass. This deep draft harbor would provide a protected environment

where the river barges, large oceangoing vessels and midstream transfer equipment could safely operate.

The location of the proposed terminal is easily accessible to vessels partially loaded at existing terminals on the Mississippi River or at Mobile, Houston, Galveston, or Corpus Christi.

Environmentally, the net impact of the project is positive. Economically, it would be of a scale that local interest could provide the funding and it could be built within 2 years' time. It could serve to preserve and attract trade to the region while allowing the issues associated with river deepening to be resolved and would help to further demonstrate the great need for that larger scale project.

Plaquemines Parish is anxious to coordinate its efforts at the Federal level while proceeding with the South Pass as a local initiative project. All of the funding for the feasibility study and the permitting has come from Plaquemines Parish. If Plaquemines were certain that the federally funded deepening of the river would proceed in the near term, we would terminate the South Pass project.

On the other hand, if we were certain that the deepening project would not be implemented on a timely basis, then we would proceed with the South Pass project. The uncertainty of the Federal port funding issues leaves Plaquemines facing a choice between deferring the project, because of possible competition from the river deepening, or seeking some form of protection for the project. The pressing need for action has led us to choose the latter alternative.

We conclude by asking you to consider these alternatives, ranked in order of their importance.

No. 1, full funding of the river deepening project as established in the report of the Governor's task force on the deepening of the Mississippi River, commonly known as the Deep River Study.

No. 2, if the river is not deepened in a timely manner, then allow Plaquemines Parish to go forward with its topping-off facility at South Pass. At such time as the river is authorized for deepening, provision should be made in the authorizing legislation for the assumption of the outstanding indebtedness incurred as a result of the local interest initiative on behalf of the Nation's interest in foreign commerce.

No. 3, if river deepening is authorized, but implementation is delayed, then the authorizing legislation should provide that the deepening of the river be scheduled at a time when the topping-off facility has been completely amortized.

We would request that the committee consider our dilemma during your further deliberations. To this end, we ask that the feasibility study prepared for Plaquemines Parish be recorded in the proceedings of this hearing and reviewed by your staff in the interest of accommodating it and symbolic initiative projects within the final Federal legislation.

Thank you.

Senator ABDNOR. Well, thank you, Mr. Nelson. Do you feel that you want to go now and give your statement now? Then maybe we will take questions afterward.

Mr. COCCHIARA. Mr. Chairman, I very much appreciate your holding these hearings over this afternoon to allow Mr. Nelson and

I to express our views on S. 1739. I would like to discuss with you this afternoon the impact of that proposed legislation on the deepening of the lower Mississippi River.

The State of Louisiana, under the auspices of the Governor's Task Force on Deep Draft Vessel Access to the Lower Mississippi River, has recently completed a comprehensive independent investigation of the feasibility and impact of providing deeper draft access to the Mississippi River from the Gulf of Mexico to the head of deep water navigation at Baton Rouge.

This investigation required over 1 year to complete and cost the State \$600,000. Following an extensive evaluation of credentials, a team of three major firms were selected to conduct the requisite studies. They are Tippetts, Abbott, McCarthy, Stratton of New York City; Booz, Allen & Hamilton of Bethesda, Md.; and Pyburn and Odom Engineers of Baton Rouge.

These studies evaluated 45 alternative projects, including different depths and reaches of channel dredging, as well as a number of projects for topping-off large vessels offshore. All of the usual elements of such an analysis were addressed, including engineering feasibility, public and private project costs, cargo forecasts, transportation savings, benefit calculations, and economic and environmental impact assessment.

What set this investigation apart from other analyses of navigation projects, however, was the overriding concern to select the optimal project which would be financially acceptable given the likely need for substantial levels of non-Federal funding. An analysis of financial feasibility was conducted, addressing such issues as likely Federal cost sharing and the ability to finance the non-Federal share of project costs through local bond issues and the imposition of user charges. Reflecting the possible need to go to the financial markets for project financing, the projections of cargo volumes and project benefits were made on conservative bases.

These studies were so comprehensive and far reaching that the Director of the Corps of Engineers' National Waterways Study called them a landmark case in the analysis of navigation projects in this country. I would like to submit, along with my statement, a copy of the Executive Summary of the results of these studies.

Senator ABDNOR. That will be made part of the record.

Mr. COCCHIARA. Thank you, sir. (See p. 405.)

I would like briefly to discuss with you the major findings of that investigation.

First of all, the optimal project recommended by the task force, based on the consultants' studies, is for a long-range project of 55-foot depth from the gulf to Baton Rouge. The project should be constructed in phases with the first-stage construction of a 45-foot depth from the gulf to mile 182 above head of passes, just above the midpoint between Baton Rouge and New Orleans. Extending the deepened channel only to mile 182 offers significant cost savings. Whereas the corps estimated a \$525 million initial construction cost and a \$137 million annual maintenance cost of a 55-foot channel to Baton Rouge, a 45-foot channel to mile 182 would cost approximately \$135 million initially, of which \$79 million represents dredging and related channel expenditures. Annual maintenance expenditures will amount to \$18.6 million. A 55-foot channel to

mile 182 would cost \$233 million initially, including \$176 million for dredging and other channel improvements, and \$27.5 million annual maintenance expenditure.

Contrast these costs with average annual transportation savings for the 45-foot and 55-foot channels of \$93 million and \$146 million per year, respectively.

The task force also recommended that private industry be encouraged to develop topping-off facilities in the vicinity of the mouth of the river to allow the establishment of patterns of trade in large bulk carriers as quickly as possible.

The second major finding of our studies is that the deepening of the lower Mississippi appears to be the most important and most viable deep draft project in this country. The first stage projects are significantly less expensive than other deep draft projects, which typically range from \$400 to \$500 million.

The amount of cargo which could benefit from a deepened channel is significantly greater than with other projects. The lower Mississippi shipped 183 million tons of foreign trade in 1981, of which almost 90 percent was carried in bulk. Compare that to 47 million tons of foreign trade shipped at Norfolk and 31 million tons of foreign trade shipped at Baltimore in 1981.

Not only are the quantities of cargo greater on the lower Mississippi, but the diversity of cargo is much greater. While other deep draft ports ship one or two commodities which might move in larger vessels, the lower Mississippi carries a variety of commodities which would benefit from a deeper channel: grain, coal, crude petroleum, chemicals, minerals, and fertilizers.

The port complex of the lower Mississippi is the largest in this country in total tonnage carried and serves a hinterland directly affecting over one-third of the Nation.

The economic importance of the lower Mississippi was well documented in testimony presented by Ned Reed, the executive director of the Port of New Orleans, at hearings held by Congressman Mario Biaggi last week in New Orleans. I would request that a copy of Mr. Reed's testimony be incorporated, as well, into the record of this hearing.

Not only is the deepening of the lower Mississippi an extremely important project to the Nation, it is also apparent that the economics of the deepening projects recommended by the Governor's task force are, as navigation projects go, quite good, especially when compared to other deepening projects in the country.

The third crucial, and unfortunate, conclusion of Louisiana's investigation is that despite the economic importance, relatively low cost and superior economics of the recommended projects, even the relatively modest phase one river deepening project can not be accomplished solely with private financing.

A 45-foot channel deepening project to mile 182 financed by a tax-free debt instrument with payback through user charges imposed only on the cargo benefiting from the deepened channel would require a user charge in excess of 50 cents per ton in today's dollars. In addition, a second debt instrument of approximately \$90 million would be required to cover early year deficits until cargo increases generate sufficient revenues to cover debt repayment costs.

A user charge set high enough to cover early year debt repayment obligations would act as a severe disincentive to use of the deeper channel. A 55-foot deepening project to mile 182, similarly financed, would require a user charge in excess of 75 cents a ton, and a second debt instrument of approximately \$165 million.

We seriously doubt if any other deep draft project in this country would be in better financial condition.

If the deepening of the lower Mississippi or any other deep draft project is to proceed, a number of conditions must be provided:

No. 1, substantial Federal cost sharing of initial construction and annual maintenance costs; No. 2, financing of the non-Federal cost share through a federally assured or federally provided tax-free debt instrument with appropriately structured repayment terms; No. 3, imposition of user charges on an equitable basis and at a reasonable level to repay the non-Federal cost share; No. 4, fast tracking of authorization, appropriation and permitting procedures.

I will not recommend a level of Federal cost sharing, but I do recommend strongly that deep draft projects receive the same treatment as general cargo port projects. Deep draft projects provide greater economic efficiencies; will allow our Nation's exports to compete more effectively in world markets; and will lower the cost of needed imports. Given these advantages of deep draft projects, it is counterproductive, we feel, to establish a system whereby general cargo port projects are treated lavishly in comparison to deep draft projects.

It is widely recognized that Federal expenditures must be curtailed in many areas, and waterway funding is probably no exception. It would be unwise, however, to accomplish this by penalizing a project because of the depth of its channel. Any type of waterway project can be a bad investment.

I urge you, if limitation of expenditure is considered necessary, to establish a stringent set of criteria for evaluating waterway projects in order to select those projects to be authorized and funded by the Federal Government.

Limit funding levels if necessary, but don't penalize projects solely on the basis of the depth of the channel. This concludes my remarks.

Senator ABDNOR. I thank both of you gentlemen.

Mr. Cocchiara, you realize that if the Federal Government were to take over all the expenditures for you, we would have to do it for everyone else, and we need deepwater seaports all over this country like we don't need to keep building a \$200 billion deficit each year. We don't.

How do we justify to every Senator who has ports in their State, why we should do it for you and not for them? We certainly don't need every port desiring to be a deepwater port saying that the Federal Government ought to put one in for them.

Mr. COCCHIARA. From a purely selfish and competitive standpoint, we totally agree with you. We would not want to recommend that the Federal Government fund every deep draft or shallow draft project that any local constituency was interested in.

We would suggest a very stringent set of criteria, a very serious evaluation of each and every project of this type, and only the substantial funding of those which meet the criteria. We are not look-

ing for total funding from the Federal Government, but substantial funding of those projects, only those projects and a very limited number of projects at that, that would pass that severe set of criteria.

Senator ABDNOR. What kind of criteria? What would you put it at? What was the going criteria formula? What factors should be taken into consideration?

Mr. COCCHIARA. In analyzing our project, it seemed that the most telling criteria was the level of user charge needed, especially as compared to the level of transportation cost savings. In addition, we feel an important consideration should be the regional and national effect of the waterway project.

Senator ABDNOR. Well, I suppose we have got to tighten it down so it did certain things and not every one interprets it to the place where they think they are eligible.

Mr. NELSON, do you have any thoughts on that? Our concern, my concern is we can overdo deepwater ports.

Mr. NELSON. Yes; I understand the concern. I guess my comment might come from an observation. I was not as closely involved with the river deepening project as Mr. Cocchiara, but approximately 3 years ago, I attended a hearing in New Orleans in which the Corps of Engineers presented their findings of a 10-year study for deepening the river.

This was one in which the benefit-cost ratio in excess of 8 or 10 were calculated. That study was based upon economic data which stopped in 1973. Simply, the corps chose to stop collecting data in 1973, so they effectively missed the rise in grain trade; they missed the rise in coal trade. As a consequence, Peabody Coal Co., requested to review their comments, review their economics, and they did so and said in today's market, in a 1980 market, that project could have been implemented with a benefit-cost ratio in excess of 12.

Since that time, the Governor's task force has reviewed the same findings again. They all date back to the corps report, they date back to 1970, and as someone somewhat familiar with it, I see in each case a very high benefit-cost ratio with this project.

I am not as closely aware of other projects, Newport News, the east and west coast, but I do not know of other projects which consistently come up with such high, positive benefit-to-cost ratios.

Senator ABDNOR. Either one of you can answer this. Why would we have only a topping-off facility at the mouth? Why not a full port there? Is there any reason it can't be there instead of having it up the river?

Mr. NELSON. The topping-off facility is sort of seen as an interim sort of stopgap measure, because it is perceived by the local authority that it may be years before the Federal Government has resolved the port funding issue. As I said, the corps study goes back already 14 years, and what we perceive is that while we are making up our minds, we are losing an opportunity in the world trade market that the Japanese, the South Africans, the Colombians in South America are all entering coal markets and are speaking for and taking over shares which the United States has traditionally had, and which we really could continue to have if we only had a deep draft capability somewhere.

The project which we studied is only seen as an interim measure until such time that deep draft legislation is ironed out.

Senator ABDNOR. Why wouldn't a deepwater port be satisfactory at the mouth? Where would you place your final deep port?

Mr. NELSON. It is an artificially dredged harbor immediately west of South Pass.

Senator ABDNOR. Where is that, near Baton Rouge?

Mr. NELSON. It is right where the Mississippi goes into the Gulf of Mexico.

Senator ABDNOR. I need a map, I guess.

Mr. NELSON. It is within 22 miles of the 60-foot contour of the Gulf of Mexico, and it is viable as an interim measure, but it does not provide nearly the benefit that the deepening of the river does. It is a much smaller project affecting only a segment of the market, but it is an important segment.

Mr. COCCHIARA. If I may elaborate on that, Senator?

Senator ABDNOR. Yes.

Mr. COCCHIARA. The project Mr. Nelson was describing is located right at the gulf.

Senator ABDNOR. Oh, it is?

Mr. COCCHIARA. Yes; it is the kind of facility that will serve the needs, for example, of coal ships that will require to be topped off, or even fully loaded; coal ships that are too big to come into the Mississippi River. As you know, however, we have a tremendous investment on the river as far as Baton Rouge in land-based terminals: Coal terminals, grain terminals, as well as numerous petroleum refineries and petroleum handling facilities on the river. The topping-off facility would perhaps be able to serve some of the grain trade; but as you know, Senator, land based grain terminals are able to do a number of things that grain requires that cannot be done in an offshore or a topping-off type operation.

The studies and the concept that Mr. Nelson has described would not serve the petroleum trade. The studies that we conducted tried to find the most efficient project, not just the most efficient dredging project, and what we came up with was a combination project. One part of that is an initial dredging, 45 feet, complemented by a topping off project such as the kind that Mr. Nelson has described today.

We feel that in the short term, that is the most efficient approach to providing deeper draft access to the Lower River.

Senator ABDNOR. It would say in our bill that depths of 45 feet would require 30 percent match of fees.

Mr. COCCHIARA. I understand that, and that would certainly be beneficial to the project.

The topping-off operation, however, is inherently a more expensive operation to operate, not necessarily the physical operation of the topping-off facility itself, but the total transportation cost of performing a topping-off operation is a higher cost per ton operation than the savings that could be achieved through operation in the river.

That is why we have recommended the long-term project be for channel deepening in the river. Now, even if the river were dredged, let's say, to 50 or 55 feet, the topping-off operation would

still have some use for fully loading large coal carriers. Our study shows the coal carriers can use up to 60 feet in depth.

We have not recommended dredging the river 60 feet. We don't feel the benefit-cost ratio is there for that extent of deepening, but even with the river dredged, a topping-off operation could still be used.

Senator ABDNOR. Even if our economy were to make a glowing recovery, you still won't go to financing to do this work?

Mr. COCCHIARA. We feel the project can sustain a substantial percentage of its own costs.

The initial financing is a problem, however. This type of project could not, in and of itself, be sold as a revenue-bond-type measure. It would require some sort of guarantee of repayment, and we don't see that sort of guarantee coming in the form of usage guarantees from the users of the channel.

In addition, repayment would be a problem in the early years. We see the project generating significant excess revenues to pay project costs in the later years of the project, when cargo volumes have built up to sufficient levels. The project is capable of supporting a substantial percentage of its own costs provided suitable financial instruments could be obtained. In our view, the most practical instrument would be either a federally assured or federally provided debt-financing arrangement with repayment terms structured so that in early years, smaller payments could be made, with ballooning payments in later years.

Again, that sort of arrangement is difficult to accomplish among private financial markets.

Senator ABDNOR. What would happen is we had the kind of arrangements we had with the 70-percent guaranteed loans and then had the first few years of debt payments phased in or even maybe not have to require paying interest payments at all for 10 years; deferred payments; even drop the interest on it; no interest at all for 10 years?

Mr. COCCHIARA. We did not study a no-interest loan.

Senator ABDNOR. If we had that, would that make it palatable?

Mr. COCCHIARA. A no-interest loan?

Senator ABDNOR. For 10 years; if the Federal Government paid the interest for the first 10 years; for the first 10 years, let's say, the Federal Government would step in and pay the interest on the indebtedness. My staff is more generous than I am here.

Let's see how you would go for this: We encountered this earlier today. The Federal Government would step in and take over the interest payments for the first 10 or so years. That also becomes a subsidy to you, and then from that point on, you would incur the interest plus the payments.

Mr. COCCHIARA. I am inclined to believe that would certainly make our project viable; that we could accomplish the project under those types of terms and conditions, yes, sir.

Senator ABDNOR. It is just a possibility. We have found this to be rather common in some of the other testimony that we have received today. This is the purpose of the hearing, to receive suggestions so that we can find some common ground and improve this bill.

We will look into it, and if we do so, I was just wondering how it would apply to you. Anyway, it does have possibilities as far as you are concerned?

Mr. COCCHIARA. It appears that that type of an arrangement would make our project very viable.

We did not look at a no-cost debt instrument. We looked at tax-free market rates of interest and saw that the project was viable given the conditions that I have described. So certainly, with interest-free a financing in the first few years, that would certainly be very beneficial to the project, and I believe it would make the project quite viable.

Senator ABDNOR. How does that strike you?

Mr. NELSON. That I think, in my case, I should not have a direct applicability to this project, and I am, again, speaking from a single project. But I think in terms of the overall bill, in terms of resolving the Federal funding issue that that could certainly help the various ports to get these projects on their feet.

We have heard several times today about the rising revenues to be realized in the latter years of any project. I will say that in our case, the timing is more of an issue than is the funding. We would like to establish a relationship so we could know, as early as possible, what the Federal policy will be, and that will help us plan our own schedule.

Senator ABDNOR. Let me say that we are very anxious to accommodate you. We would like to get a piece of legislation through, and we have every intention to push and push and push until something does happen. I know a lot of people are saying we will never get legislation through.

I think we are going to. I think we are going to come together. We are not going to make everyone happy, I can assure you. Something as important as this is always hard to get a consensus on.

But I think we have enough support for a good bill, that we are going to get one passed this year, and I hope it will be helpful to you.

But bear in mind when we do, we still have to make the new administration happy; they have got to sign it. We can pass all the bills we want to, and if it is not acceptable downtown, then we are in trouble. We have been trying to keep it within what we thought might be the acceptability of the administration, and we still think we have got a good chance.

So somewhere along the line, I hope we can come together with a consensus enough to get it through the Senate, a bill through the Senate, and then work our differences out at the House, because we would have a long way to go from our bill and their bill.

But I am sure they had other sound advice over history. It was pointed out to me by some of our prior witnesses that we had some questions about the 80-percent requirement, that the user charges have to be on the actual beneficiary for the cost of the user charges, 80 percent of it would be attributed to the beneficiaries.

How would that strike you?

Mr. COCCHIARA. Our studies assume that all user charges that would be assessed to pay for the non-Federal share of this project would be collected only from that cargo that benefits from the deepened channel.

Senator ABDNOR. That is great to hear.

Mr. NELSON. The project which we studied, it would be 100 percent private financing, 100 percent recovery from the beneficiaries.

Senator ABDNOR. We are happy to hear that. Well, gentlemen, I think we will end our hearing for the day. Thank you for the effort you have made to get here. I am sorry you had to battle the weather, but we are happy you made it, because we know the importance of any legislation we pass, how it affects your problems, so it is good that you were able to make it.

I think we have gleaned enough information and views today that, hopefully, we are going to go ahead and move on a bill and have it to the floor just as soon as possible. I don't mean tomorrow. It is going to take a lot more time than that, but we are on the right track. It is probably the first time that we have ever tried this. We hope it helps. After we pass the bill out of the committee, which we did last November, the same day we passed the bill out of the full committee, they announced that we were going to hold hearings on the second and third day of the new session.

But it is just that we want to do everything possible to make this as fair as we can and workable as possible. I think it has been good. We have had some long hours here in the last 2 days, but I think it is well worth it, and hopefully, with the help of you and the others, we can come up with an acceptable piece of legislation.

We certainly thank you for your attendance today.

Mr. COCCHIARA. Thank you, Senator.

Mr. NELSON. Thank you.

Senator ABDNOR. The committee will be adjourned until the call of the Chair.

[Whereupon, at 2:22 p.m., the subcommittee was recessed, subject to the call of the Chair.]

[Statements submitted for the record follow:]

STATEMENT OF SENATOR JOHN W. WARNER
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
JANUARY 25, 1984

MR. CHAIRMAN, I COMMEND YOU AND THE OTHER MEMBERS OF THE SUBCOMMITTEE FOR HOLDING THESE HEARINGS ON S. 1739'S TITLE X, "THE NATIONAL HARBORS IMPROVEMENT ACT." A MODERN HARBOR SYSTEM IS VITALLY IMPORTANT TO THE UNITED STATES, AND WE APPRECIATE THE COMMITTEE'S DILIGENCE IN PURSUING LEGISLATION TO ACCOMPLISH THIS GOAL.

UNFORTUNATELY, MR. CHAIRMAN, I FIND TITLE X ILL-EQUIPPED TO ACHIEVE OUR MUTUAL GOALS OF HARBOR IMPROVEMENTS, AND, THEREFORE, UNACCEPTABLE IN ITS PRESENT FORM. IN MY JUDGMENT, THE SENATE WILL NOT PASS THE BILL WITHOUT MAJOR MODIFICATIONS. IT IS MY HOPE THAT THIS SUBCOMMITTEE WILL CONSIDER SUGGESTIONS THE VIRGINIA WITNESSES OFFER TOGETHER WITH THOSE OF OTHER WITNESSES AND SEND A REVISED BILL TO THE FLOOR.

LAST YEAR, I JOINED WITH SENATORS HATFIELD, BYRD, TRIBLE, THURMOND AND MATTINGLY IN INTRODUCING S. 865, "THE DEEP-DRAFT NAVIGATION ACT." WHILE NOT PERFECT, S. 865 CONTINUES TO REPRESENT THE BEST ALTERNATIVE TO ASSURE THE CONTINUED MAINTENANCE AND IMPROVEMENT OF OUR NATIONAL HARBOR SYSTEM.

TITLE X OF S. 1739 HAS A NUMBER OF OBJECTIONABLE PROVISIONS. SENATOR TRIBLE AND I WILL CALL TO THE COMMITTEE'S ATTENTION THE THREE MAJOR PROBLEMS WE FIND WITH THE LEGISLATION:

I. THE LACK OF ANY FEDERAL PARTICIPATION IN FUNDING PROJECTS DEEPER THAN 45 FEET.

II. THE SEVERE RESTRICTIONS ON HOW LOCAL PORTS MAY STRUCTURE USER FEES.

III. THE LACK OF A UNIFORM FEDERAL FUNDING FORMULA FOR HARBOR IMPROVEMENTS AT EQUAL DEPTHS.

1. TITLE X SETS AN ARBITRARY BREAKING POINT OF 45 FEET FOR IMPROVEMENT PROJECTS BY PROVIDING 70% FEDERAL FUNDING FOR PROJECTS LESS THAN 45 FEET AND NO FEDERAL FUNDING FOR IMPROVEMENTS DEEPER THAN 45 FEET.

A MODERN HARBOR SYSTEM IS IN THE STRONG NATIONAL INTEREST OF THE UNITED STATES. IT MEANS JOBS FOR UNEMPLOYED AMERICANS, A FAVORABLE BALANCE OF TRADE, FULFILLMENT OF OUR NATIONAL SECURITY COMMITMENTS, A STABLE SOURCE OF ENERGY FOR OUR ALLIES, AND A RENEWAL OF AMERICAN COMPETITIVENESS IN INTERNATIONAL TRADE.

FROM THROUGHOUT THE HEARTLANDS OF THE UNITED STATES, GOODS FLOW TO OUR SEAPORTS WHICH ARE THE LIFELOOD OF OUR NATIONAL ECONOMY. THE ECONOMIC BENEFITS OF MODERN PORTS DO NOT STOP AT THE COASTS, BUT CONTINUE INLAND TO CONSUMERS THROUGHOUT THE UNITED STATES. PORT IMPROVEMENTS AT ALL DEPTHS ARE NOT ONLY WORTHY OF FEDERAL FINANCIAL SUPPORT, BUT TRULY A RESPONSIBILITY OF THE FEDERAL GOVERNMENT.

TITLE X SHOULD BE AMENDED TO ADOPT A SLIDING SCAL OF COST SHARING, ALONG THE LINES OF S. 865, IN WHICH THE FEDERAL INTEREST IN HARBOR IMPROVEMENTS IS ALWAYS RETAINED, BUT IT LESSENS AS THE DEPTH INCREASES.

THE INTERNATIONAL SHIPPING COMMUNITY IS MOVING TOWARDS HUGE BULK CARRIERS WHICH CAN TAKE ADVANTAGE OF THE SUBSTANTIAL TRANSPORTATION SAVINGS THEY OFFER. IF THE U. S. IS TO REMAIN COMPETITIVE IN INTERNATIONAL TRADE, SOME AMERICAN PORTS MUST BE IMPROVED TO ACCOMMODATE SHIPS REQUIRING DRAFTS OF MORE THAN 45 FEET.

THE CHARGE HAS BEEN MADE THAT DEEPER PORTS ARE FOR THE SOLE BENEFIT OF THE COAL INDUSTRY. HOWEVER, GRAIN AND OTHER BULK COMMODITIES ARE ALREADY REALIZING THE BENEFITS OF THE HUGE BULK CARRIERS. I AM CONVINCED THAT OTHER SHIPPERS WILL TAKE ADVANTAGE OF THESE CHANNELS WHEN THEY ARE AVAILABLE.

LAST APRIL, THE JADE PHOENIX SAILED OUT OF TACOMA, WASHINGTON, DRAWING 57 FEET OF WATER AND FILLED WITH 110,000 TONS OF GRAIN FOR EGYPT. THE LOADING OF THIS HUGE GRAIN COLLIER POINTS TO AN EMERGING TREND IN THE TRANSPORTATION OF GRAIN AND OTHER BULK AGRICULTURAL PRODUCTS TO WORLD MARKETS - USE OF ECONOMIES OF SCALE. THE JADE PHOENIX LOWERS SHIPPING COSTS OF GRAIN BY 50% AND MAKES AMERICAN SHIPPING MORE COMPETITIVE BY DRASTICALLY LOWERING THE DELIVERED PRICE OF AMERICAN GRAIN AT FOREIGN PORTS. THE GLOOMY SIDE OF THIS OTHERWISE BRIGHT PICTURE IS THAT THE JADE PHOENIX'S HUGE SIZE MEANS IT CAN ONLY FULLY LOAD IN THE PUGET SOUND HARBORS. THIS DRASTICALLY LIMITS THE USE OF THESE HUGE VESSELS AND TAKES AWAY FROM AMERICA'S AGRICULTURAL INTERESTS THE FLEXIBILITY TO CALL AT MOST AMERICAN PORTS, AND, AT THE SAME TIME, REALIZE THE COST SAVINGS FROM LARGE BULK CARRIERS.

LAST JULY, A BELGIAN SUPERCOLLIER, THE 140,000 TON FEDERAL SKEENER, BERTHED IN NORFOLK, VIRGINIA'S PIER 6 AND LOADED METALLURGICAL COAL BOUND FOR JAPAN. AFTER 98,000 TONS OF APPALACHIAN COAL WAS LOADED IN THE SHIP'S HULL, THE VESSEL STEAMED OUT OF PORT TO SOUTH AFRICA, WHERE IT LOADED AN ADDITIONAL 40,000 TONS OF SOUTH AFRICAN COAL AND SAILED FOR JAPAN. IF THE VESSEL HAD LOADED TO CAPACITY AT NORFOLK, IT WOULD HAVE RUN AGROUND.

MR. CHAIRMAN, I POINT TO THESE EXAMPLES SO THAT THE COMMITTEE WILL UNDERSTAND THAT THE WORLD SHIPPING COMMUNITY IS ALREADY MOVING TOWARDS HUGE BULK CARRIERS, AND THE U.S. IS BEING LEFT BEHIND.

AMERICAN INDUSTRY IS ON THE DEFENSIVE IN THE INTERNATIONAL MARKETPLACE. WE MUST TAKE EVERY POSSIBLE STEP TO ENCOURAGE INNOVATION AND COMPETITION IN INTERNATIONAL TRADE, INCLUDING A STRONG FEDERAL ROLE IN CAPTURING SUPERCOLLIER TRAFFIC.

II. TITLE X GIVES PORTS THE AUTHORITY TO IMPOSE PORT-SPECIFIC USER FEES TO RECOVER THE COSTS OF IMPROVEMENTS BEYOND 45 FEET. THE BILL ALSO REQUIRES THAT 80% OF THE FEES MUST BE COLLECTED FROM THOSE DIRECTLY BENEFITING FROM THE DEEPER CHANNEL.

THIS DUAL STANDARD GRANTS THE PORTS AUTHORITY TO RAISE REVENUES ON THE ONE HAND, YET SEVERELY RESTRICTS THEIR ABILITY TO DO SO ON THE OTHER.

I AM CONCERNED THAT THE 80% RESTRICTION LEAVES THE PORTS SUBJECT TO NEVER-ENDING LITIGATION OVER THE ASSESSMENT OF FEES DUE TO THE IMPOSSIBILITY OF IDENTIFYING DIRECT BENEFICIARIES. IS THE VESSEL SAVED FROM AN ACCIDENT DURING A STORM BECAUSE OF THE MARGIN OF SAFETY PROVIDED BY A DEEPER CHANNEL A DIRECT BENEFICIARY OF THE DEEPENING? HOW DO YOU IDENTIFY THE DIRECT BENEFICIARIES OF CHANNEL WIDENINGS?

NO ONE CAN GUARANTEE THE PRECISE AMOUNT OF TRAFFIC A DEEP-DRAFT CHANNEL WILL ATTRACT AND THE ACCOMPANYING REVENUE IT WILL RAISE IN USER FEES. THIS LACK OF REVENUE CERTAINTY MAY CREATE IMPOSSIBLE DIFFICULTIES FOR PORTS TRYING TO FINANCE PROJECTS.

THE NATIONAL PORT SYSTEM IS MADE UP OF MORE THAN 180 PORTS, EACH HAVING THEIR OWN UNIQUE CHARACTERISTICS AND PROBLEMS. PORTS MUST BE GIVEN TOTAL FLEXIBILITY TO STRUCTURE THEIR USER FEES TO ALLOW THEM TO REMAIN AS COMPETITIVE AS POSSIBLE. IT IS UNFAIR TO REQUIRE LOCAL INTERESTS TO PAY FOR HARBOR IMPROVEMENTS WHILE ALSO DICTATING TO THEM HOW TO RAISE THE MONEY TO PAY FOR IT.

I URGE THE SUBCOMMITTEE TO DELETE THE REQUIREMENT THAT 80% OF USER FEES MUST BE COLLECTED FROM VESSELS REQUIRING AT LEAST A 45 FOOT CHANNEL AND GIVE LOCAL INTERESTS TOTAL FLEXIBILITY.

III. THE COMMITTEE BILL FAILS TO ADOPT A UNIFORM POLICY TO BE APPLIED ACROSS THE BOARD FOR PORT IMPROVEMENTS THROUGHOUT THE UNITED STATES. THE PORT OF BALTIMORE WAS SINGLED OUT FOR PREFERENTIAL TREATMENT WHEN ITS SISTER DEEP-DRAFT PORTS ARE REQUIRED TO BEAR 100% OF THE COST. THIS IS GROSSLY UNFAIR AND UNACCEPTABLE.

I URGE THE SUBCOMMITTEE TO AMEND TITLE X SO THAT PORTS OF SIMILAR DEPTHS ARE GIVEN EQUAL OPPORTUNITIES TO COMPETE FOR FEDERAL PARTICIPATION IN CHANNEL IMPROVEMENTS.

STATEMENT BY SENATOR MACK MATTINGLY
Water Resources Subcommittee
Senate Environment & Public Works Committee
January 24-25, 1984
Hearings relating to S.1739, The Water
Resources and Development Act of 1983

THANK YOU MR. CHAIRMAN:

I WOULD FIRST LIKE TO SAY THAT I AM GENERALLY PLEASED WITH THE EFFORTS OF THE SUBCOMMITTEE AND COMMEND THE LEADERSHIP OF THE CHAIRMAN IN ADDRESSING THROUGH S.1739 THE SERIOUS BACK-LOG IN INLAND AND DEEP-DRAFT NAVIGATION PROJECT AUTHORIZATIONS. I SHARE YOUR CONCERNS REGARDING THE SERIOUS ECONOMIC IMPACTS WHICH ARE PRESENTLY OCCURRING--AND WHICH WILL RAPIDLY INCREASE IN MAGNITUDE--IF WE DO NOT MOVE SWIFTLY TO MODERNIZE OUR CAPABILITY TO MOVE AMERICAN GOODS AND PRODUCTS IN A COST EFFICIENT MANNER OVER AN INTEGRATED SYSTEM OF WATERBORNE TRANSPORTATION. MR. CHAIRMAN, I KNOW THAT I NEED NOT REMIND YOU OF THE SERIOUS PROBLEMS WHICH FACE AMERICAN PRODUCERS FROM EVERY SECTOR IN THEIR CONSTANT BATTLE TO SECURE AND MAINTAIN EXPORT MARKETS. ONE HAS ONLY TO LOOK AT THE TREND IN OUR CONTINUALLY ESCALATING FOREIGN TRADE DEFICIT TO REALIZE THAT THE CONGRESS MUST ENCOURAGE AND FACILITATE--NOT FURTHER RESTRICT--THE MARKETABILITY OF ALL AMERICAN GOODS AND PRODUCTS ABROAD. CLEARLY EVERY TAXPAYER IN THIS COUNTRY STANDS TO BENEFIT FROM DRAMATICALLY REDUCED TRADE DEFICITS AND THE INDIVIDUAL ECONOMIC IMPLICATIONS WHICH WILL RESULT. INCREASED EXPORTS MEAN GREATER ECONOMIC ACTIVITY IN THE PRODUCING SECTOR OF OUR ECONOMY, WHICH TRANSLATES DIRECTLY INTO ADDITIONAL TAX REVENUE FOR THE TREASURY AND LOWERED DOMESTIC DEFICITS. OUR EXPORTERS ARE ALREADY FACING A SEVERE CRISIS IN THE WORLD MARKETPLACE BECAUSE OF FOREIGN TARIFF AND NON-TARIFF TRADE

BARRIERS, GOVERNMENT SUPPORTED PRODUCTION AND PREDATORY EXPORT SUBSIDIES.

THUS, I BELIEVE WE CAN COME EASILY TO TWO VERY OBVIOUS CONCLUSIONS WHEN CONSIDERING ANY TYPE OF COST RECOVERY MEASURE DEALING WITH WATERBORNE COMMERCE: FIRST, THERE IS A GENUINE NATIONAL BENEFIT CONVEYED TO ALL SECTORS OF OUR ECONOMY THROUGH THE ESTABLISHMENT AND MAINTENANCE OF A NATIONAL SYSTEM OF WATER TRANSPORT; SECOND, ANY SCHEME WHICH WOULD IMPOSE A FEE OR TAX UPON THE USE OF SUCH WATER TRANSPORTATION SYSTEM MUST BE CAREFULLY CRAFTED IN A MANNER WHICH WILL NOT FURTHER WEAKEN THE MARKETABILITY OF U.S. GOODS AND PRODUCTS IN FOREIGN MARKETS.

BECAUSE OF THE BROAD BENEFITS WHICH ACCRUE FROM AN EFFICIENT NETWORK OF INLAND WATERWAYS AND DEEP-DRAFT PORTS, IT IS APPARENT THAT ANY PROPOSAL SHOULD--AND MUST--RETAIN A SIGNIFICANT LEVEL OF DIRECT FEDERAL FUNDING. FURTHER, IT IS ESSENTIAL THAT ANY COST RECOVERY MECHANISM WHICH WOULD DIRECTLY TAX USERS OF WATER TRANSPORTATION MUST BE FLEXIBLE AND RESPONSIVE TO THE REALITIES OF RAPIDLY FLUCTUATING PRICES FOR AGRICULTURAL COMMODITIES AND RAW OR SEMI-FINISHED MATERIALS IN THE WORLD MARKET. IT IS EQUALLY IMPORTANT THAT WE BEGIN NOW TO MODERNIZE AND IMPROVE OUR COUNTRY'S WATER TRANSPORTATION SYSTEM. SUCH IMPROVEMENT WILL ALLOW THE PRODUCERS OF MANY PRODUCTS TO COMPETE MORE AGGRESSIVELY BECAUSE OF THE ECONOMIES OF SCALE WHICH CAN BE REALIZED AND THROUGH REDUCED TRANSPORTATION DELAYS CAUSED BY OUTDATED AND OVERLOADED FACILITIES.

IN EARLY 1981, I AND NUMEROUS OTHER SENATORS BEGAN SEARCHING FOR AN ANSWER TO THE VEXING PROBLEM OF PROVIDING ADEQUATE OPERATION AND MAINTENANCE DREDGING FOR OUR EXISTING PORT FACILITIES AND FOR SOME REASONABLE FORMULA WHICH WOULD HELP AMERICA MODERNIZE THOSE CHANNELS WHICH WOULD BE MOST FEASIBLE FROM A MARKET TEST STANDPOINT. YOU WILL RECALL THAT THERE WERE NUMEROUS, WIDELY DIVERGENT BILLS INTRODUCED DURING THAT SESSION OF CONGRESS, EACH SEEKING A SOLUTION TO ALL OR VARIOUS PARTS OF THE PROBLEM.

WHEN NONE OF THOSE SUGGESTIONS SEEMED ADEQUATE, I JOINED FORCES WITH SENATORS WARNER, HATFIELD, THURMOND, BYRD AND OTHERS IN AN EFFORT TO SEEK OUT AN EQUITABLE COMPROMISE AND A WORKABLE SOLUTION TO THIS COMPLICATED AND HIGHLY POLITICIZED MATTER. WITH THE ASSISTANCE OF OTHER SENATORS' OFFICES, THE PORT AND CARRIER INDUSTRIES, WITH A BROAD SPECTRUM OF INPUT FROM SHIPPERS AND CARGOS, WITH THE EXPENDITURE OF CONSIDERABLE AMOUNTS OF OUR OWN PERSONAL TIME AND THE DEDICATION OF LITERALLY THOUSANDS OF STAFF HOURS, WE FINALLY INTRODUCED S.865 ON MARCH 21, 1983.

S. 865 WAS REFERRED TO YOUR SUBCOMMITTEE, MR. CHAIRMAN, AND I HAD ANTICIPATED THAT THE LONG AND ARDUOUS EFFORTS WHICH LAID THE FOUNDATION FOR ITS INTRODUCTION WOULD BE APPRECIATED. I HELD THOSE EXPECTATIONS PERHAPS WITH MORE HOPE THAN WOULD BE THE USUAL CASE BECAUSE OF SEVERAL OCCURANCES...A LETTER FROM O.M.B. DIRECTOR DAVID STOCKMAN INDICATING THAT OUR PROPOSAL WAS GENERALLY WORKABLE,

ACCEPTABLE AND "THE BASIS FOR REAL COMPROMISE" AND SUCCESS...A VERBAL ENDORSEMENT OF S.865 BY VICE-PRESIDENT BUSH AT AN APPEARANCE HE MADE IN NORFOLK, VIRGINIA WITH SENATOR WARNER...AND MOST IMPORTANTLY, HAVING THE BILL CO-SPONSORED BY EIGHTEEN OF OUR COLLEAGUES IN THE UNITED STATES SENATE. UNFORTUNATELY, SUCH DOES NOT SEEM TO BE THE CASE. OUR SINCERE, WELL-RESEARCHED AND SOUND PROPOSAL APPARENTLY HAS NOT RECEIVED EVEN CURSORY CONSIDERATION BY THE STAFF OR MEMBERSHIP OF THIS SUBCOMMITTEE. INSTEAD, A LAST-MINUTE, APPARENTLY HASTILY DRAFTED AND ILL-CONSIDERED PROPOSAL WAS MADE PUBLIC ONLY BRIEFLY PRIOR TO MARKUP AND WAS SUBSEQUENTLY INCORPORATED INTO THE PROVISIONS OF S.1739 WITHOUT OPPORTUNITY FOR PUBLIC SCRUTINY OR COMMENT.

SO, WE FIND OURSELVES IN TODAY'S SITUATION...THE VERY UNUSUAL PROCEDURE OF HOLDING PUBLIC HEARINGS ON A MEASURE AFTER THE FACT. AND FRANKLY, LET ME SAY THAT MY STAFF, THE STAFF OF OTHER CONCERNED SENATORS AND OTHER PERSONS WHO HAVE BEEN TRYING TO WORK ON THIS MATTER FOR SOME TWO-AND-ONE-HALF YEARS HAVE BEEN MET WITH AN ATTITUDE RESEMBLING THE OLD SAYING, "DON'T BOTHER US WITH FACTS...OUR MINDS ARE MADE UP!".

THUS, I AM LEFT ONLY TO VIGOROUSLY OPPOSE S.1739 THROUGH EVERY MEANS AT MY DISPOSAL AS A MEMBER OF THE UNITED STATES SENATE. WHY MUST I EXERCISE THESE OPTIONS TO PREVENT ADOPTION OF S.1739? THE ANSWER IS VERY CLEAR AND SIMPLE...S.1739 FLIES IN THE FACE OF THE BEST INTERESTS OF THE NATION AS A WHOLE AND WOULD DO GREAT DAMAGE TO THE INDUSTRY OF WATER

TRANSPORTATION AND ALL OUR PRODUCERS WHO RELY UPON THAT INDUSTRY TO CARRY THEIR GOODS TO MARKETS AT HOME AND ABROAD.

MR. CHAIRMAN, LET ME ASSURE YOU THAT I HAVE NOTHING OTHER THAN THE HIGHEST REGARD FOR YOU AND THIS SUBCOMMITTEE ON AN INDIVIDUAL BASIS. HOWEVER, I WOULD DO A GREAT DISSERVICE IF I DID NOT CALL TO THE ATTENTION OF OUR OTHER COLLEAGUES THE GRAVE IMPLICATIONS POSED BY THE PROVISIONS OF S.1739...GRAVE IMPLICATIONS FOR THE EXPORT SALES OF WHEAT FROM SOUTH DAKOTA...SEVERE CURTAILMENT FOR THE PROSPECTS OF COAL SALES FROM WEST VIRGINIA, WYOMING AND KENTUCKY...DEVASTATING IMPACTS ON TIMBER EXPORTS FROM THE SOUTHEAST AND THE NORTHWEST. MR. CHAIRMAN, S.1739 NOT ONLY POSES THE PROSPECT OF SEVERELY IMPACTING OUR BALANCE OF TRADE DEFICITS, BUT ALMOST VIRTUALLY ENSURES THAT MUCH NEEDED PORT IMPROVEMENTS WILL NEVER BE ACCOMPLISHED!

IT IS A SERIOUS MISTAKE TO EVEN CONTEMPLATE DELEGATING THE TAXING POWERS OF CONGRESS TO THE EXECUTIVE BRANCH--A DELEGATION WHICH MAY WELL PROVE UNCONSTITUTIONAL. IF CONGRESS FEELS THAT A PORTION OF WATER TRANSPORTATION'S COSTS FOR OPERATIONS AND MAINTENANCE AND THE PRICE OF IMPROVEMENTS SHOULD BE BORNE MORE DIRECTLY BY SHIPPERS, CARRIERS AND THE BARGE AND TOW INDUSTRY, THEN LET US HAVE THE COURAGE TO EXERCISE OUR AUTHORITY--AFTER DUE DELIBERATION--AND IMPOSE SUCH TAXES AS THE CONGRESS DETERMINES REASONABLE AND EQUITABLE. THE PROVISIONS OF S.1739 WHICH WOULD CREATE A "USERS BOARD" FOR INLAND AND DEEP-DRAFT FACILITIES IS NOTHING MORE THAN A DELAYING TACTIC AND POSES THE THREAT OF USURPATION OF CONGRESS' CONSTITUTIONALLY ORDAINED ROLE. THE POTENTIAL CUMULATIVE EFFECTS WHICH FEASIBLY COULD RESULT FROM THIS PROPOSAL MIGHT VERY EASILY PROVE TO BE THE

FINAL DEATH KNELL FOR AMERICAN FARM COMMODITIES AND OTHER
RELATIVELY LOWER VALUE EXPORTS.

MR. CHAIRMAN, S.1739 MAKES ABSOLUTELY NO ATTEMPT TO ADDRESS
OR RESOLVE THE PROBLEMS FACING OUR "FIFTH COAST", THE GREAT LAKES.
THE GREAT LAKES AREA COMPRISES A VAST, PRODUCING ELEMENT
OF U.S. TRADE. TO COMPLETELY IGNORE THE UNIQUE PROBLEMS WHICH
MUST BE SOLVED IN ORDER TO PROMOTE AND EXPAND THE OPPORTUNITIES FOR
WATERBORNE COMMERCE WOULD BE COMMON NEGLIGENCE TO SAY THE LEAST.

I MUST POINT OUT THAT IT IS TOTALLY INCOMPREHENSIBLE TO
ME TO THINK THAT THIS SUBCOMMITTEE WOULD APPARENTLY IGNORE THE
FACT THAT THE INLAND SYSTEM IS ALREADY PAYING A "USER FEE" IN THE
FORM OF AN 8-CENT PER GALLON TAX ON FUEL...A TAX WHICH IS SCHEDULED
TO RISE TO 10-CENTS PER GALLON IN 1985. S.1739 GOES THROUGH THE
"WINDOW DRESSING" OF MAKING AUTHORIZATIONS, AND YET PLACES A "CAP"
ON FEDERAL EXPEDITURES (INCLUDING FUNDS RAISED BY THE FUEL TAX)
IN AN AMOUNT WHICH WILL HARDLY PERMIT ROUTINE MAINTENANCE OF EXISTING
FACILITIES, AND WHICH WOULD NOT PROVIDE ANY SIGNIFICANT FUNDING FOR
MUCH-NEEDED IMPROVEMENTS.

MR. CHAIRMAN, EVEN THOUGH I HAVE ONLY SCRACHED THE SURFACE
OF ALL THE MANY VALID OBJECTIONS WHICH I HAVE TO TITLES V AND X
OF S.1739, I WOULD LIKE TO REITERATE MY COMMITMENTS...MY COMMITMENT
TO HELP PROMOTE AND ASSIST AMERICAN PRODUCERS SELL THEIR PRODUCTS IN
THE WORLD MARKET BY IMPROVING WATER TRANSPORTATION WITHOUT EXCESSIVE
FEES OR TAXES, AND MY COMMITMENT TO OPPOSE IN EVERY MANNER POSSIBLE
THE ENACTMENT OF TITLES V AND X OF S.1739 AS PRESENTLY CONSTITUTED.

THANK YOU.

STATEMENT BY SENATOR STROM THURMOND (R-S.C.) BEFORE THE WATER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, REFERENCE TITLE X OF S.1739, THE OMNIBUS WATER RESOURCES BILL. JANUARY 25, 1984.

MR. CHAIRMAN:

I appreciate having the opportunity to offer comments on Title X of S.1739, the Omnibus Water Resources Bill, which was ordered reported by the Committee on Environment and Public Works just prior to adjournment of the first session of the 98th Congress last November. Major policy changes, such as those addressed in this legislation, deserve the fullest and fairest consideration and review possible. The able Chairman and the other distinguished members of the Subcommittee are to be commended for their willingness to hold these supplemental hearings, in order that additional views and information may be considered.

Mr. Chairman, I will limit my remarks to what I perceive to be a few of the most important, and most perplexing, issues presented in Title X. In my view, these are, the creation of a commission to study user-fees, and the cap or ceiling, imposed on operations and maintenance expenditures.

I must oppose the approach to user-fees taken by this Subcommittee and by the Committee. The creation of a commission to study user-fees does nothing more than side-step a very difficult policy question which is most appropriate for resolution by this, the representative, legislative branch of the government. The unpleasant task of structuring the form and amount of the user-fee system would be diverted from Congress to another newly created and unnecessary commission.

I am firm in my belief that we in the Senate should make this decision. During the past several years, this Committee and interested Senators have developed data and materials, conducted hearings, surveys, and studies, and dedicated many hundreds of man-hours to the precise question which, under S.1739, is about to be shuttled off to a new commission for study and recommendations. This is wasteful of both time and money. This Committee should reject the idea of this commission and set about its proper policy-recommending function as a Committee of this Nation's great deliberative body, the U. S. Senate.

The user-fee dispute has raged long enough. The information presently available is more than sufficient to permit the necessary decisions to be made in the Senate. I think this Committee and the Senate should fulfill their responsibilities.

I am also deeply concerned about the \$350 million ceiling placed on operations and maintenance expenditures during the two years allotted for the commission study. My concern focuses on the absence of a delivery mechanism for the limited funds.

Although a cap will definitely control "O & M" expenditures, nothing in Title X provides assurances that all ports will receive the funds needed for operations and maintenance. In the absence of a clearly established delivery mechanism, smaller ports may be forced out of the race for limited funds. For this reason, it is necessary that the Committee set forth, in some detail, the method of allocating the "capped" funds, so all port interests may be assured of an equitable share of the funds.

In saying this, I do not mean to imply that I would support the O & M "cap". It remains my belief that the previously discussed user-fee should be implemented as soon as possible. This would immediately shift a large portion of the O & M burden to those who receive the most direct benefits from the use of our ports. Capping O & M while the commission studies user-fees is an unnecessary and undesirable intermediate step.

In closing, I would urge the distinguished members of this Subcommittee to reject the study commission as well as the interim O & M cap. As Senators, we all must share the responsibility, and the obligation, to address these major policy decisions ourselves. I would respectfully request that this Subcommittee give very serious consideration to the concepts embodied in S.865, the Deep Draft Navigation Act. While this particular bill may not completely satisfy all interested parties, it continues to be, in my estimation, the most workable foundation for a harbor policy which will best serve our Nation in the years to come.

Thank you, Mr. Chairman, for allowing me to express my views in this hearing today.

STATEMENT OF SENATOR ROBERT C. BYRD
ON S. 1739

for the
SUBCOMMITTEE ON WATER RESOURCES

Mr. Chairman, I thank you for allowing me the opportunity to submit this statement for the record with respect to S. 1739, the Water Resources Development Act. I commend you and the members of the Committee for reporting such an important and comprehensive bill. It has been seven years since comprehensive water resources legislation was signed into law.

I would like to comment on Title V, which deals with the inland waterway system, and Title X, which deals with the nation's deep-water ports. As you are aware, I have an interest in both these areas.

Title V includes authorizations for construction of twelve projects on the nation's inland waterway system. These projects, such as the replacement of lock and dam 7 and 8 on the Monongahela River, are important to the economies of states like West Virginia. Let me discuss in a little more detail one of the most important of these projects for West Virginia: the replacement of the lock and dam at Gallipolis on the Ohio River.

The efficient operation of the Gallipolis lock and dam is important to the economies of several states. For example, it is estimated by DINAMO (the Association for the Development of Interstate Navigability on the Allegheny, Monongahela, and Ohio) that West Virginia accounts for 27% of the total commerce that

moves through the Gallipolis lock and dam. Ohio accounts for 35% and Pennsylvania accounts for 27%. It is also estimated that about 14% of all tonnage which moves through the Gallipolis facilities originates in West Virginia. About 27% of all tonnage moving through Gallipolis is received in West Virginia.

The Corps of Engineers has projected significant increases in traffic along the Ohio River over the next several decades. Coal is expected to account for most of the increased traffic. In 1980 about 26 million tons of coal moved through the Gallipolis lock and dam. The Corps estimates that by 1990 coal tonnage will increase to 36 million tons. Indeed, by 1990 coal will account for 65% of all traffic moving through Gallipolis. By the year 2000, the Corps estimates that 42.4 million tons of coal will be moving through Gallipolis.

However, future increased traffic will further tax the outmoded facilities at Gallipolis and will cause unneeded delays and additional costs to consumers. The Corps estimates that, between now and the year 2000, if no modernization occurs at Gallipolis, the existing facilities would restrict traffic growth and satisfy only 45% of the maximum projected traffic growth.

The authorization of construction at Gallipolis is a long-awaited and positive action which will be of immense benefit to the coal industries and economies of West Virginia and several other states. I applaud you and the Committee for recognizing the importance of moving forward with this project.

I must also, however, express reservations with respect to some other provisions of Title V. Section 501 establishes a "cap" of \$646 million on Federal obligations for the construction, rehabilitation, operation, and maintenance of the inland waterway system. The cap would be in effect for 14 years, beginning in FY 1986 and ending in FY 1999. The cap is based on actual expenditures for the inland waterways in FY 1983. Thus, Title V freezes Federal obligations at the FY 1983 level.

In subsequent years, if expenditures exceed the \$646 million cap, the difference would be made up through the imposition of user fees by the Secretary of the Army. However, any additional funds would be raised and made available only if recommended by a new "Inland Waterway Users Board" (established in Title V). As I understand the provisions of Title V with respect to the issue of user fees, the "users" of the inland waterway system would be responsible for 100% of the costs above the cap.

I have two major concerns with respect to these proposals. First, I can find no justification for imposing a cap on Federal inland waterway expenditures for 14 years. The justification seems to be based on a concern over the budget deficit. Indeed, it would appear that the Committee does not view expenditures on the inland waterway system as an investment in an important aspect of the nation's transportation infrastructure.

However, as I indicated earlier in my discussions of the Gallipolis project, the inland waterway system plays an important

role in the economic health and development of the nation. Expenditures on this system are investments which pay economic returns. To impose a cap on Federal expenditures for the inland waterway system for the rest of this century is too severe, and may jeopardize the timely improvement and maintenance of this vital transportation network.

My second concern is the unlimited authority delegated to the Secretary of the Army in determining the level of expenditures on the inland system in any given year, and the level, type, and extent of any user fees which the Secretary could impose. For example, in a budget-cutting mood, the Secretary could recommend that expenditures should be less than the \$646 million cap. The Secretary could decide that an extensive system of user fees (e.g., surcharges, tolls, license fees, etc.) is necessary.

The Committee bill establishes an Inland Waterway Users Board which is to make recommendations on these matters. However, the Board is appointed by the Secretary of the Army, and is purely advisory. The Secretary is not obligated in any way to accept the recommendations of the Board.

Thus, I must question the wisdom of such an unlimited delegation of authority to the Secretary of the Army. The responsibility for making decisions with respect to the levels of expenditures on the nation's inland system, and especially with respect to the raising of revenues, should properly reside in the Congress, not the Secretary of the Army.

Title X deals with ports and harbors, a subject in which I have considerable interest. As you know, I am one of the co-authors of S. 865, one of the major alternative proposals on port development policy. From the perspective of that proposal, let me suggest some concepts which I respectfully suggest would enhance the provisions of Title X with respect to new navigation projects.

Title X provides for a substantial Federal interest in navigation improvement projects of less than 45 feet. Costs would be recovered for such projects based on a 30/70 cost-sharing formula, where the "non-Federal interests" would be responsible for 30% of the cost. The Federal government would be responsible for 70% of the cost. However, Title X in effect ~~states~~ ^{implies} that there is no Federal interest in projects deeper than 45 feet: The total cost of navigation improvement projects deeper than 45 feet would be borne by the "non-Federal interest." On what basis can one say that there is a substantial Federal interest in a navigation improvement project of 45 feet, while there is no Federal interest in a project of 45.1 feet?

This distinction becomes more blurred when one considers the provisions for operations and maintenance. The Committee bill provides that the Federal government will pay 100% of all operations and maintenance (O&M) costs up to a depth of 45 feet. Incremental O&M costs (i.e., the additional cost of operating and maintaining a channel at its new depth beyond 45 feet) would be

subject to 50/50 cost-sharing between the Federal government and the non-Federal interest.

It seems to me that the logic of the provisions dealing with new construction and O&M should lead to a conclusion considerably different from the one reached in the Committee bill. On the one hand, the Committee bill implies that there is no Federal interest in navigation improvement projects deeper than 45 feet. On the other hand, the bill implies that there is a Federal interest in the incremental O&M for a deeper channel, such that the Federal government would cost-share incremental O&M on a 50/50 basis. In other words, if there is a substantial Federal interest in maintaining a harbor channel which has been deepened to, say, 55 feet, it would seem that there should be a corresponding Federal interest in cost-sharing the construction which deepened that channel to 55 feet.

Let me suggest an alternative approach which recognizes the difficulty, if not the impossibility, of imposing hard and fast rules to determine where Federal interest begins or ends.

Rather than impose a strict depth limitation of 45 feet, a "sliding scale" concept could be applied. The sliding scale in S. 865 recognizes that Federal interest in navigation improvement projects diminishes as these projects increase in depth. Furthermore, S. 865 recognizes that there may be cases where even the larger projects could be of sufficient merit and benefit that there is a degree of Federal interest. Hence, S. 865 contains a

sliding scale which relates project depth to a Federal/non-Federal cost-sharing formula. Under this formula, the Federal share for projects of 35 feet or less is 80%, and diminishes for deeper projects to 25% for projects of 60 feet or more.

A second, and related concern, has to do with the Committee's provision requiring that at least 80% of a project deeper than 45 feet must be recovered from the "direct beneficiaries" of the deeper channel.

It seems to me that this approach is unduly restrictive (and, incidentally, may be at odds with the general approach of Title X). The approach of Title X is to imply that there is no Federal interest in navigation improvements deeper than 45 feet. Port authorities wishing to pursue such projects are forced to do so, and must cover 100% of the costs. However, the cost recovery provision dictates that if a port authority goes forward with such a project, is willing to cover 100% of the costs, and develops a cost-recovery plan, it must structure that plan so that 80% of the cost-recovery is borne by the "direct beneficiaries" of the deeper channel. Thus, the local port authority has no flexibility in determining how it will structure its cost-recovery efforts. I submit that this is a decision which should be made by the local port authority, not dictated by the Congress.

An alternative, the approach adopted in S. 865, would be to allow the local port authority the full flexibility to structure

its cost-recovery plan, including any system of user fees deemed to be necessary, based upon negotiations and discussions with the various users of that port and other interested parties. This would allow local port authorities to structure their cost-recovery plans in a manner which takes into account port-specific conditions and interests.

Finally, the Committee bill would also require that a local port authority's cost-recovery efforts must begin during the period of construction. This would mean that those who must carry the burden of paying for a navigation improvement project, under the Committee bill, would have to begin paying for the benefits of a channel before they receive the benefits of the new channel. For example, if a port authority were to undertake a project to dredge its channel to 55 feet to allow coal exporters to achieve cost savings through the use of larger ships, the Committee bill would require that user fees be imposed on coal exporters during the period of construction. If the channel takes five years to complete, coal exporters would be paying user fees during that five-year period even though they were unable to enjoy whatever cost savings they could achieve through the use of larger vessels.

The approach in S. 865 would not require cost recovery until the project is completed. Thus, under S. 865, payment for the benefits of a deeper channel begins when the benefits are received.

Mr. Chairman, my comments are intended as an effort to make a positive contribution to your legislative handiwork. We all recognize the importance of this bill, and we all share the goal of having a bill passed and signed into law. I appreciate and commend your efforts to ensure that the bill that comes to the Senate floor will be reasonable, and that it represents our best efforts to reach an accommodation of views so that the final product is something which we can all accept as fair.

TESTIMONY

OF

GOVERNOR JAMES R. THOMPSON

Introduction

Illinois is a major user of the nation's inland waterway and deep draft port systems. Each year, 86 million tons of barge traffic are shipped to and from Illinois on our inland rivers. In addition, 14 million tons are shipped on the Great Lakes to and from other US ports, Canada and overseas markets and 34 million tons of Illinois products are exported each year from tidewater ports.

Illinois has 1,110 miles of navigable inland waterways, providing Illinois with one of the largest inland waterway commercial navigation systems among the states. The state borders on 60 miles of navigable Lake Michigan waters: the port of Chicago is one of the largest and busiest on the Great Lakes.

As a result of this abundance of transportation resources, Illinois has been able to participate actively in world-wide markets. In 1980, the state of Illinois led the nation in the tonnage and value of agricultural exports and was fourth in manufacturing exports. The total value of Illinois waterborne exports in that year was \$9.7 billion. Clearly, Illinois has a vital interest in the quality of our nation's inland waterways and port systems and in seeing that the costs of providing these facilities are borne in an equitable manner.

Titles V and X address the difficult issue of financing the improvements called for in the bill. Illinois believes that imposition of additional user fees on the inland system will significantly hurt the economies of both Illinois and the nation and urges the Senate not to support the provisions of Title V which put in place a mechanism for imposing such fees. Concerning the Title X provisions, Illinois has no objections to the proposed National Commission on Harbor Maintenance. We believe that the Commission should not propose harbor user charges and will take this opportunity to explain why.

In the event that the Senate proceeds with proposals to increase user charges despite the objections raised by this state and many other parties, Illinois is also using the opportunity provided by these hearings to propose adjustments to the cost-recovery schemes which are under consideration.

Title V - Inland Navigation User Charges

Illinois supports the continued collection of the inland waterway fuel fee and the increase in this fee scheduled for October, 1985. This fee will provide \$70 million in federal fiscal year 1986 for improvements to the inland waterway system. Illinois opposes the imposition of any additional user fees on the inland waterway system. Such an action, especially if taken precipitously, would have a disastrous effect on the Illinois barge, agriculture and coal industries. For example, a study entitled Impacts of Waterway User Fees on Illinois Agriculture, prepared by Dr. Lowell Hill of the University of Illinois, concludes that in the long run, farmers will absorb much of the cost of increased fees through lower bid prices for their products. Both this study and assessments by the Illinois Department of Transportation concluded that recovery of 100% of system operations and maintenance (but not construction) would result in fuel taxes of approximately 30 cents per gallon.

The impact of this fuel tax on Illinois farmers is estimated at \$27.5 million to \$30 million annually. The current language of Title V would put in place a mechanism which would allow the Secretary of the Army to impose user charges at his discretion. Information provided to this Committee indicates that the total fee could reach the equivalent of 45 cents per gallon by FY 1939. Should fees reach this magnitude, the impacts on Illinois would be severe.

Should the Senate wish to proceed with user charges despite these concerns, Illinois believes that certain principles should underlie the proposals. Any further increases in user charge collections should occur only to allow increased levels of investment in operation, maintenance and construction on the inland waterway system, and not to displace the current level of federal effort for these purposes. Moreover, if users of the inland system are to bear a portion of increased costs of the system, the waterway and shipping industries should have a major role in identifying the overall level of expenditures for the system, the specific activities and projects which will be undertaken within those funding levels, and the level and type of user fees which should be imposed to provide the necessary funds.

The creation of an Inland Waterways Users Board as proposed in Title V is consistent with the concepts just delineated. However, Illinois believes the Title could be strengthened through a few changes described below.

1. The Inland Waterway Trust Fund should be excluded from the cap on federal expenditures and the cap should be reduced accordingly. Under the current Title V language, any increases in revenue from the waterway fuel tax is credited toward the \$646 million cap on federal expenditures. As a result, the fee increase scheduled for 1985, as well as any increases which result from higher use of the system will have the effect of reducing federal investment in the system. Illinois believes that these increased revenues would more properly be used for increased expenditures on the inland waterway system.
2. The cap on federal expenditures should be indexed to inflation. By setting the federal expenditure cap at a fixed nominal dollar figure, the current language does not truly maintain the current level of federal investment in the system. Instead, waterway users would pay higher fees not only for increased levels of investment in the system, but also for the reduced purchasing power of the federal contribution caused by inflation, over which the users have no control.
3. A segregated fund should be established for the proceeds of any user fees imposed under this Title. We believe that creation of a segregated fund will increase the confidence of users that fees will actually be spent on the inland system. If the Inland Waterway Trust Fund is excluded from the cap as recommended above, new fees could be deposited in that fund. Otherwise, a separate fund should be established.

4. The authority of the Secretary of the Army to impose user charges should be limited to recovering those expenditures which are approved by the Inland Waterways Users Board (Users Board) and are actually undertaken. Under the current language of Title V, the Secretary is allowed to levy user fees sufficient to meet the needs as recommended by the Users Board. Since actual spending may be lower than the Board's recommendations for any number of reasons (project delays, Congressional limitations, court challenges, etc.) it is necessary that the Secretary's authority be limited to what is actually needed. An appropriate mechanism should be developed to prevent the accumulation of high balances from the user fees in the treasury.
5. Whenever actual general fund obligations are below the ceiling established in this Title, the unused ceiling should be carried over to subsequent years. The current language of Section 503(c) allows carry over of ceiling when the Users Board does not recommend the use of the full amount. Any amounts which the Board recommends for obligation but which Congress does not appropriate or the Secretary fails to obligate should also be carried over.
6. The Users Board should also be empowered to recommend the level and type of user fees necessary to fund their proposed expenditures. Under the present language of Title V, the Secretary of the Army is required to establish user charges without receiving any recommendations from the Users Board on the form the fees should take. Given the wide range of fees which have been discussed, and the controversy surrounding these choices, it is essential that the users have a major say in defining these fees. The addition of this function will also improve the deliberations of the Users Board. By being able to review specific fee structures and levels which result from a given set of expenditures, the Users Board will be far better able to evaluate the relative merit of expenditure options.
7. Any increase in user fees proposed by the Secretary should take effect only upon positive action by Congress. We are troubled by the prospect of delegating the establishment of user fees of this nature and magnitude to the Secretary of the Army. Congressional approval of any new fee or increase in an existing fee should be required. If Congress did not approve an increase, the Secretary could continue to impose the fees already approved and to obligate general funds up to the cap.
8. The Users Board should be provided with a small staff. Given the complexity of the task which is being assigned to the part time Board, it is important that the members be provided with a permanent, full-time staff able to provide independent information on investment options. The cost of such a staff should be very small and could be borne by user fees.

The State of Illinois believes that the inclusion of these suggestions would significantly strengthen Title V of S 1739. While we continue to oppose increases in inland waterway user charges, we believe these modifications would make the system more workable and equitable.

Title X - Harbor User Charges and Cost Sharing

The State of Illinois endorses the creation of a National Commission on Harbor Maintenance (Commission) to recommend the degree to which harbor maintenance costs should be shared by non-federal interests and the appropriate means to recover the non-federal share. The creation of a Commission of this sort will provide the Congress with a sound basis for determining whether to proceed with the imposition of user charges for harbor maintenance. There is substantial recent evidence that harbor user charges may be counterproductive. For example, a recent Department of Commerce study concluded that user charges could dramatically reduce exports, result in thousands of lost jobs and reduce direct sales and incomes substantially. The study concluded that each dollar collected in user charges would result in a net loss of \$1.26 to the national economy.

Due to the uncertainty of the impacts of user charges and because the Great Lakes may suffer severe economic disruptions, the Great Lakes states conducted a study of the economic impacts of user charges. The study, entitled The Economic Impacts of a Uniform, Deep-Draft User Charge on Great Lakes Shipping, was prepared by Data Resources, Inc. for the Great Lakes Commission.

The study concluded that the imposition of a uniform harbor user charge based on tonnage and recovery of 100% of operation and maintenance costs would collect \$46 million from Great Lakes shippers. In addition, grain from the Midwest would be placed at a competitive disadvantage with grain from Canada being shipped from Canadian Great Lakes ports.

The results of these studies indicate that any movement toward user fees for harbor maintenance should be made only after careful evaluation. The Commission proposed in Title X is an appropriate means of assessing potential charges.

The St. Lawrence Seaway has long been the only federal navigation project for which tolls are collected. These discriminatory tolls have increased costs to shippers and had the effect of stifling Seaway commerce. The State of Illinois believes that tolls on the U.S. portion of the St. Lawrence Seaway should be lifted immediately. This should be accomplished by incorporating the provisions of S 1943 into S 1739.

The Council of Great Lakes Governors recently wrote to President Reagan to propose the creation of a special Task Force on Maritime Policy to formulate a comprehensive and consistent national maritime policy. The National Harbor Maintenance Commission should coordinate its efforts with those of such a Task Force or other similar bodies.

St. Lawrence Seaway and Great Lakes Navigation Season Extension

While this issue is not directly related to the user charge issues which are the focus of the hearing, I would like to take this opportunity to make the case for extension of the navigation season on the Great Lakes and St. Lawrence Seaway.

Illinois supports incremental extension of the navigation season to enhance shipping through Great Lakes ports, to strengthen the shipping industry and to generally aid Midwest shippers who would benefit from the increased availability of this low-cost water transportation system. The season should be extended, in approximately two-week increments, to 10 months on both the Great Lakes and the Seaway. Each incremental extension should be preceded by a full predictive environmental impact statement.

Attached to this testimony is draft language which would allow the orderly extension of the navigation season with full consideration of environmental concerns. Since extension of the season on the Great Lakes will require close coordination of several federal agencies and the affected states, and since the Canadian government would have principal responsibility for extending the Seaway season, the draft language also calls for the involvement of these bodies in the planning and implementation process.

This language is the result of discussions with several states and others interested in the Lakes. We believe it strikes an appropriate balance between the need to take full advantage of an important economic resource and the need to protect an incomparable environmental resource. The State of Illinois recommends it to the Subcommittee for inclusion in the bill.

Conclusion

Illinois strongly supports the passage of S 1739. The bill contains authorizations for many water resource projects, such as a second lock at Lock and Dam 26 on the Mississippi River, which are of importance to Illinois and the the nation. The State endorses the efforts of the Environment and Public Works Committee to address the difficult issues which a comprehensive bill of this nature will inevitably raise. In this testimony, I believe the State has offered constructive ideas which will improve the bill. Your consideration of these suggestions will be greatly appreciated.

TESTIMONY BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
OF THE SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

ON

S. 1739

THE WATER RESOURCES DEVELOPMENT ACT OF 1983

JANUARY 25, 1984

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STATEMENT ON COST RECOVERY OF NAVIGATION EXPENDITURES

I General Statement --

My name is Charles F. Lehman. I am a Vice President of American Commercial Barge Line Company (ACBL) based in Jeffersonville, Indiana. ACBL is the waterway transportation unit of a group of companies called American Commercial Lines, Inc. (ACL, Inc.), which furnishes water related services to the public. We provide bulk barge transportation, own shipbuilding and repair yards, water located terminals, and communication facilities for inland waterway activities. Our operations are in the mid-continent area of the country moving the basic bulk commodities of our agricultural-industrial society, such as grain, ores, steel, fertilizer, coal, scrap, oil, and chemicals.

Presently ACL, Inc. is in a voting trust operated entirely independently of any other organization. This is a result of the acquisition of Texas Gas Resources (TXGR) by the CSX Corporation last year. At the time of the acquisition, we were a unit of TXGR. Since CSX is a railroad holding company, provisions of law (49 USC 11321) provide that the Interstate Commerce Commission conduct a full hearing as to the competitive implications and public interest aspects of a railroad owning a water transportation company prior to allowing this type of intermodal ownership.

The views expressed today are entirely independent of any which may be, or have been, expressed by CSX. These ideas have been developed over the last five years since enactment of the Inland Waterways Revenue Act of 1978 (Public Law 95-502, 26 USC 4042). We have always believed the 1978 Act was the wrong legislative approach to solving the economic problem of providing for the financing of the commercial shallow draft barging system in this country. From the time the Act became effective, we have been trying to develop a more rational and equitable program of user financing. Most of the ideas incorporated in this testimony have been verbalized to our associates in the industry from the time the waterway user tax became law. Indeed, a paper with the same approach was circulated to a number of other company officials addressing these same issues almost two years ago. The present severely depressed economic conditions of the industry appears to have precluded most of our colleagues from agreeing to any taxation resulting in an increase in their costs at this time. Therefore, the ideas presented today are our own and are not intended to reflect those of any association or any other company.

This testimony outlines an approach of full cost recovery from the owners and operators who provide transportation service on our inland waterways. The plan will have a significant impact on the cost of inland freight movements. However, since navigation projects take a generation from conception to final completion, we believe we must

look beyond present economic conditions to develop a program to prevent deterioration of a vital system of transportation. We cannot wait until a crisis situation arises or simply endure the lengthy unproductive delays and inefficient operations which we know will occur before starting the process of rebuilding aged and deteriorating structures. A proper solution must be found.

American Commercial Barge Line has opposed the present fuel tax, as well as the current conceptual proposals of user fees, as an additional financial burden on water transportation competitiveness which does not meet the test of fairness, nor put in place a program to effectively control costs. The present system of public dollars invested in public works projects in relation to public benefits received has served the nation well.

We believe the thoughts incorporated in this testimony can provide the rational response to this contentious issue which seems to be debated in every Administration and by every Congress. Our testimony furnishes an economic test which we consider necessary in full cost recovery. It creates the base wherein the users will pay for the benefits they receive. It addresses the questions of equity and fairness of taxation. Finally, it establishes a Commission which would advise, prioritize needs, and act as an overseer of the system for what inland waterway operators require and for which they are

willing to pay. If an approach is not taken to break the impasse which now exists between Congress, the Administration, and the industry, the cost of repairing or restoring a deteriorated national waterway transportation asset will be beyond the economic justification of the industry or the taxpayer. We hope the program we present will provide the necessary solution.

II Equity --

The issues of cost recovery are much more complex than the simple solution of "let's charge all commercial navigation users for the expenses of the Corps of Engineers' navigation budget." If the issue really is economic efficiency, as cost recovery proponents have testified, then in the interest of that efficiency the federal government must take a rational and equitable look at any and all forms of aid which the government bestows on the entire transportation industry. Air, barge, rail, and truck have had, or are having, some degree of government largesse bestowed upon them. With economic efficiency the test, recovery of that aid from all modes should be legislated. We believe Congress should not only look at the so-called "navigation road bed subsidy," but also tax policy which benefits a single industry, aids which assist, and have assisted, a single mode at the labor bargaining table, past aids which continue to accrue present day benefits, low interest loans, and outright grants. If an equitable

modal recovery program is not implemented, then offsetting credits of recovery to competing modes should be undertaken when establishing each different type of individual user charge modal program. This will ensure a neutral governmental policy as regards transportation and allow the market place to decide which mode may best serve a shipper's needs.

We believe Congress should direct the General Accounting Office to investigate and delineate these aids. Upon completion of their audit, the Congress should then incorporate them in a broad based transportation policy for the nation.

III Allocation of Corps of Engineers Navigation Costs --

The key ingredient of a program for cost recovery MUST be to establish the base from which costs are recovered. There must be an assignment of present day benefits for each use of Corps' projects. The usage of every project matures with age and is distinctly different from the original base of planning when a narrow scope of authorized purposes were the only criteria used in establishing a positive cost-benefit ratio which would allow the project to be built.

It will be necessary to modify the present Corps' accounting system to accommodate a cost recovery allocation program. Although

the present accounting method appears to be satisfactory as a budget management system, it does not definitively distinguish between all the users and the functions of projects.

So-called "navigation projects" confer benefits on many persons and industries. Some of these include recreation, water supply and flood control. Commercial waterway navigation interests should only be required to pay that percentage of the cost of the future construction, operation, and maintenance functions which are fairly attributable to them. A reevaluation of the beneficiaries of Corps' projects should be made every five years as conditions change.

In addition to recognizing a benefit assignment of existing available users within the confines of a project, an efficiency management test assessment of the administering agency should be made to determine the public benefits attributable to the military readiness and the emergency preparedness roles required of the Corps of Engineers which exceed the basic necessities of operating a navigation system. The present manning and structure of the Corps of Engineers incurs greater expense, however necessary to the public good, than would be required if the navigable waterway system was operated solely for the purposes of navigation.

A recent study contracted for one of the waterway industry associations has projected a conservative preliminary estimate of

allocation. This study is now in a final phase of examining management practices. Overall, when the study evaluated some of the major segments of the interior river and canal system, it indicates about 46 percent of the navigation budget expenditures benefit commercial marine users and 54 percent of project benefits accrue to others. The final accounting phase of the study now in progress should show additional benefits which should be for the account of others, rather than commercial navigation operators.

Congress should initiate legislation specifying the beneficiaries of water projects, as well as how benefits should be assigned in the allocation formula. An estimate of allocation for cost recovery purposes could be directed by Congress pending the completion of a more authoritative study. The entire navigation system would be evaluated for users on a project-by-project basis.

Projects for which initial appropriations have been made should be grandfathered to allow them to be completed as authorized without recovery of their cost. In other words, the Red River, Quachita, Tenn-Tom, and any other development projects still in the construction phase should not have their capital costs passed on to users. All future authorizations for new construction as well as for major rehabilitations, and those projects authorized but not as yet started (broken ground) would be subject to cost recovery.

IV Defining The System --

A. Regions

The commercial inland waterways of the continental United States fall basically into four regions which are separate and distinct and have no, or negligible traffic moving between the different regions by inland vessels. These are:

1. Great Lakes (Listed only for the purpose of showing it as a separate section of waterway.)
2. Atlantic Coast
3. Gulf Intracoastal Waterway and waters flowing into it (including the Mississippi River and its tributaries)
4. Pacific Coast

Each region would be a separate cost, or cost recovery center, based on expenditures spent within a region and the ton-miles of traffic generated within the region. Presently, the Corps keeps commerce statistics of the reported tonnage which moves in each of these areas by classification, tons, and ton-miles. It is proposed that the operations and maintenance expenditures of the Corps of Engineers similarly be accounted for within these four broad regions.

B. Segments Of A Region

Upon completion of defined regional territories, each region should be further divided into logical river sections or groups with its own costs and generated ton-miles. For a starting point, it is suggested the following general waterways be considered whole segments within the Gulf Intracoastal Waterway and waters flowing into it (including the Western Rivers Region), which is the most complex of the four regional territories (these are the waters listed in Public Law 95-502 for this area):

- Alabama-Coosa Rivers
- Allegheny River
- Apalachicola-Chattahoochee and Flint Rivers
- Arkansas River
- Atchafalaya River
- Black Warrior-Tombigbee-Mobile Rivers
- Cumberland River
- Green and Barren Rivers
- Gulf Intracoastal Waterway (East of New Orleans)
- Gulf Intracoastal Waterway (West of New Orleans)
- Illinois Waterway (Calumet-Sag Channel)
- Kanawha River
- Kaskaskia River
- Kentucky River
- Upper Mississippi River (Mile 0 to 858)
- Lower Mississippi River
- Missouri River
- Monongahela River
- Ohio River
- Ouachita-Black Rivers
- Pearl River
- Red River
- Tennessee River
- White River

This list is not all inclusive and does not include every waterway which may be maintained, such as the Licking River and Big Sandy flowing into the Ohio, nor the Black River (Wisconsin) flowing into the Upper Mississippi, and others which are tributary to the main water courses listed here. These other smaller systems could be included in the waters of the main segment or evaluated separately on a case-by-case basis.

V Recovery Plan --

A. Method Of Cost Recovery

The type of tax which may be imposed upon waterway users must be considered very carefully. The present fuel tax has no relationship to the recovery of costs on the inland waterways. It is simply an excise tax levied as a revenue raiser. Any tax imposed on waterway use should be clearly associated with freight transportation in order that the benefits to costs of providing service are clearly identifiable to the users. Cost recovery taxes or fees should not be hidden in general vessel operating expenses. It is, therefore, proposed that the cost for operations and maintenance of the channels and structures of a system be recovered through a waybill type charge calculated on each ton-mile of freight moved of all common, contract, private or

public carriers. We recommend that the reporting of ton-miles continue to be submitted to the Corps of Engineers. Charges for cost recovery would be sent by the Corps to those operators reporting vessel movements. The monies collected would off-set the budget cost of operations, maintenance and amortized capital construction costs.

Both civil and criminal penalties would provide for failure to report, or for willfully misreporting ton-miles to the Corps of Engineers.

B. Full Utilization Concept For Developing Waterways

Newly constructed "developing waterways" (less than half economic life) would have to be treated in a different manner from those which are considered "mature." Since all so-called "navigation" systems are in reality projects authorized, and receive appropriations for, regional economic enhancement (but add to the net national economic benefits), commercial navigation interests can only pay their portion of use of a project based upon the designed development capacity of the system. Our navigation industry does not cause the growth -- it only responds to the service requirements demanded of it, and should only pay for that part of the cost in which it shares or contributes to the growth. The list of segments within each region would be categorized as being either mature or developing.

The capacity of any new segment added to a regional system must also be determined. Each new part has a theoretical capacity which is estimated and ultimately designed by the federal government to accommodate that capacity. At the present time, when a new waterway is built, it is evaluated in accordance with a benefit to cost criteria, wherein each dollar expended of public funds must return a greater amount of dollar benefits to the public which has invested its tax dollars. These benefits are based on a scale of zero percent return when the project is originally ready for service to some projected future date when the project will be fully utilized and return 100 percent of the benefits for which it was designed. Most of the benefits are measured in transportation savings.

An example is the Arkansas River (McClellan-Kerr) development project which the Corps of Engineers designed to have an annual fully utilized capacity of about 50 million tons. Since the present average length of haul is 240 miles, the ton mile capacity of the Arkansas would be about 12 billion ton-miles. Prior to canalization, there was practically no commerce on the river except some sand and gravel dredged from the stream bottom. When the project was completed, freight movements by water and other surface modes developed as the regional economy demanded them, resulting in net national economic benefits as well as growth to the region. After being utilized for nine years, the McClellan-Kerr waterway project was carrying about 10

million tons per year (2,400,000,000 ton-miles), approximately the target figure originally estimated by the federal government for the waterway.

If the federal government required the McClellan-Kerr commercial navigation users to reimburse the entire cost of the project's yearly operation and maintenance, as well as fully recover its annual amortized capital costs when it was in its undeveloped infancy stages, no shipper would have been able to afford the cost of water transportation service. Therefore, no growth, no development, no economic benefits, nor any appreciable improvement in the region would have occurred, which was, of course, the primary reason for building the project in the first place.

As an example, if the McClellan-Kerr project had not yet been built and was newly authorized, the proposal suggested here would require the users of the McClellan-Kerr waterway, in the ninth year of service when it carried 10 million tons, or 2.4 billion ton-miles, to pay 20 percent of amortized capital costs for the utilization of its estimated tonnage capacity after allocation of benefits.

Other new river systems, such as the Kaskaskia, the Tenn-Tom, and the Red River system now being built, would be assessed in a similar

fashion. Rivers which never reach their estimated potential would still pay on the basis of that portion of development which does occur.

C. Development And Recovery Of Average O And M Costs By Region

Operations and maintenance cost recovery would include all the allocated O and M expenses which incurred within an entire region. These expenses would be the average of a running five year historic pattern in order to cushion wide swings in costs which might occur in any one or two given years.

When properly allocated navigation O and M expenses are averaged, so also would be the ton-miles generated and estimated within the region by its segments. On mature waterways, the five year average would be used, however, on developing segments the estimated full utilization ton-miles would be incorporated in the total regional ton-mile estimate.

The total regional average allocated O and M costs would be divided by the regional average ton-miles (actual and estimated) to equate to a ton-mile recovery charge. In other words, each year the administrator would take the previous five years of expenditures allocated for commercial navigation purposes, divided by the previous

five year's ton-miles which were transported within the region to project current year taxing data.

For illustration of a Region

<u>Year</u>	Actual & Estimated	Allocated
	<u>Ton Miles</u>	<u>Costs</u>
1977	244,000,000,000	\$ 90,000,000
1978	256,000,000,000	95,000,000
1979	267,000,000,000	100,000,000
1980	279,000,000,000	105,000,000
1981	284,000,000,000	110,000,000

The average ton-miles of freight for this region over this five-year period would be 266 billion. The average O and M allocated cost would be \$100 million. For the 1982 cost recovery period the charge would be \$.0004, or four tenths of a mill per ton-mile (\$100,000,000 divided by 266,000,000,000 ton-miles).

In order to encourage judicious financial management of region expenditures, each segment's revenue contribution for cost recovery would be calculated annually. The actual cost of operating a segment per ton-mile would be measured against the average cost per ton-mile

for the entire region. If a mature segment by its ton-miles generated less than 20 percent of the regional average millage charge for operations and maintenance expenditures over a running five-year period, cost reduction methods must be considered by the Corps. A Regional Commission would make recommendations to the Corps in this regard. If reductions in operational costs did not bring expenditures in line with a targeted percentage of costs, the general users of that segment and the region would no longer be required to contribute to the operation of that segment and the government would discontinue general navigational operations on that segment.

By this method, the users (or Water Transportation User Commission) would be allowed to make an economic decision and recommendation as to the viability of continued operation on a marginal segment without requiring users of other navigation segments to maintain a high degree of cross subsidy within a larger main regional system. It would still be within the scope of others, such as Congress, or the Administration, after users had determined to no longer finance an operation, to make a political decision as to the priorities of shutting down, or keeping open the segment, as regards national defense or some other criteria.

However, if the cost did not appear to justify continued operation of a segment, or portion of a segment, and an individual shipper,

carrier, or group desired continued operation, they could contract with the government to continue operations for some specific fee. Similarly, if a community, or a state, for some other societal objective, such as recreation or job protection, wished to continue operation of a segment which had been considered by commercial users as nonproductive, they could also contract with the federal government to subsidize the continued operation of that segment.

If cost recovery for maintaining waterways is to be recovered from public users of the system, those waterways should be looked at in the same fashion as if they were the assets of a private business, assuming that the goal of cost recovery is economic efficiency. Although every total business entity must make a profit for its owners, each part, division, or segment of that business must be viewed as a separate cost center. Over the short term, profitability may vary between these different cost centers. Non-profitable operations, however, must be offset by benefits elsewhere to reach profit targets. Eventually non-productive cost centers will be terminated by any efficiently run business.

A similar example would be that of the branch lines of a railroad. If, due to changes in traffic patterns, a branch line no longer contributes sufficient profitable traffic to add to the economic health of the main line, a railroad seeks abandonment of that branch,

or at least stops spending maintenance dollars and no longer provides service on the line.

D. Development And Recovery Of Capital Expenditures

The capital cost of major rehabilitation, modernization, or expansion of existing projects (locks and/or dams) must also be based on the allocation formula of an assignment of beneficiaries.

Major rehabilitation capital projects should be considered to have a 20-year life expectancy. New structures should be amortized over at least a 50-year period. No amortized capital costs should be recovered until the rehabilitation, or new project work, is completed and the facility is available for usage.

Every capital asset within a region returns some degree of benefit to the entire region. Each segment, however, receives the prime benefit of the asset to its area and should meet an economic test as to desire and ability to pay for new capital costs. In order to achieve productive use of capital expenditures, the recovery of costs for rehabilitation and modernization of existing structures should be based on a formula of 50 percent of the cost to be paid by the total regional system users, and 50 percent by those who directly use facilities located within a segment. The charges would be based

on total regional system and segment ton-miles as defined in Section VI.

Costs would be developed per ton-mile for each segment as well as for the total (actual and estimated) ton-miles of a region. Fifty percent of the annual capital costs would be divided by the ton-miles of the region to arrive at the regional cost per ton-mile. The remaining fifty percent of the annual capital cost would be divided by the ton-miles of the segment to arrive at its portion of cost recovery.

As an example, if Lock ABC required a rehabilitation program costing \$25 million allocated to commercial navigation, the cost would be amortized over 20 years. With a designated interest rate (2% used in this example), the yearly cost would be about \$1,500,000. (Two percent is used in the example as this is approximately the same effective rate used to loan funds to the railroads under the Railroad Revitalization and Regulatory Reform Act.)

The regional system users would pay one-half of this amortization schedule, or \$750,000, through their average ton-mile tax. Vessels transiting the segment in which Lock ABC is located would pay the other half on a ton-mile segment usage basis, or the other \$750,000.

If the segment generated seven billion ton-miles of freight per year, there would be a capital cost charge for the regional expenditure on the transportation taking place on the segment amounting to \$.00011, or eleven hundredths of a mill per ton-mile of freight moved (\$750,000 divided by 7 billion segment ton-miles). The system charge would be aggregated to all the regional users. If, in the regional area, 266 billion ton-miles were transported, the rehab cost per system user ton-mile for Lock ABC would be \$.0000028, or twenty-eight ten thousandths of a mill (\$750,000 divided by 266 billion regional ton-miles).

Newly constructed facilities would be considered in the same manner as would rehabilitated projects except for the longer amortization schedule. If a new replacement Lock XYZ facility was built on a reach of a segment with a total commercial navigation allocated cost of \$200 million, the capital cost would be amortized over 50 years. Including interest (2% used in this example), the yearly cost of the project, would be \$6.4 million. Segment users would pay one-half of this total and regional users the other half. For instance, if the amount of traffic on the segment was 30 billion annual ton-miles, the charge would equal \$.00011, or eleven hundredths of a mill per ton-mile of freight moved (\$3,200,000 divided by 30 billion segment ton-miles). All regional system users would absorb the other half of the yearly amortized capital cost which would equate

to \$.000012, or twelve one thousandths of a mill per ton-mile (\$3,200,000 divided by 266 billion ton-miles).

As an illustration of how the cost recovery would be charged, consider a fairly lengthy movement of gasoline from Houston, Texas to St. Paul, Minnesota. A barge loaded with 2500 tons of cargo would amount to 4,807,500 ton-miles.

Houston to Morgan City	291 miles
Morgan City to Port Allen	64
Baton Rouge to Cairo	726
Cairo to St. Paul	<u>842</u>

Total	1,923 miles
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(1923 times 2500 tons equals 4,807,500 ton-miles)

If the previously used example of lock XYZ was located on the Upper Mississippi segment (Cairo to St. Paul) total cost recovery charge for the load of gasoline would be:

Regional system O & M (4,807,500 t/m x .0004)	\$1,923.00
Regional system capital (4,807,500 t/m x .000012)	57.69
Upper Mississippi segment capital (2,105,000 t/m x .00011)	<u>231.55</u>
Total cost of movement	\$2,212.24

There must be some method to assure that the best economic decisions are made as regards the whole system. A regional system is interrelated in tonnage movements from one section to another, so that the entire area has a degree of responsibility to ensure that the capability of the system remains intact. The 50 percent direct user pay mechanism on the segment, however, will require needs and wants to be more reasonably and rationally presented allowing proper economic decisions to be made. In other words, the proportional direct payment will more likely ensure that projects are not extravagantly exaggerated by building more than can be economically justified. This procedure will reduce political influence from economic and technical decisions, such as modernizing facilities because of the influence one group may exert in behalf of a local area.

E. Water Transportation User Commission

Although S. 1739 sets up a nationwide users board, their ideas and desires may not necessarily reflect those of the users as the users would have no input into their selection. In order for Congress to efficiently and economically set policy as to needs and desires of users of the inland commercial navigation system, it is proposed that

a Water Transportation User Commission be set up for each of the four territorial regions. The Commissions for each region would consist of no more than fifteen members. Since the concept of cost recovery is to ensure that "users pay" for the navigational system, the makeup should consist solely of those that do pay, and proportional to the amount they are required to pay.

The fifteen members of the Commission would be on staggered five-year terms. One-fifth would be elected each year to allow for a degree of continuity. The group would elect its own Chairman and Vice Chairman from members of the Commission. The Corps of Engineers would provide the administrative support and be the agency which would sponsor the Commission in the Federal government.

Each year the Corps of Engineers would publish in the Federal Register a solicitation for membership on the Commission. Thirty days after the closing of name solicitation, the list of candidates would be published, along with the name of the company or group they purported to represent. All users of a waterways regional territory would then have sixty days to submit their votes for the candidates which were up for election.

Voting rights would be based on the number of ton-miles of freight moved in the latest report submitted annually by the Corps of

Engineers as published in the Waterborne Commerce of the United States statistics. If, in a territorial region, there were 266 billion ton-miles of freight moved, each user would get one vote for each ton-mile or 100,000 ton-miles, which was moved. The person, or corporation, would be notified by the Corps of Engineers from their reporting records of the persons seeking representation on the Commission and the number of votes that particular corporation would be allowed to cast. Votes could be cast cumulatively for one candidate or split among various candidates.

Final results of the election would be published in Federal Register. Those receiving the highest number of votes would be nominated to the Commission for five years to fill the vacancies of those whose terms had expired. There would be no limit to the number of terms which one could serve, however, only one person from any one company at any given time could serve on the Commission.

The Commission would receive staffing as required from the Corps of Engineers. They would have reasonable access to the information, studies, reports, and internal data of any agency involved in the operation, maintenance, and construction of the inland waterways within their region. Cost of running the Commission would come from the fees paid by the users. The Commission would set its own budget. Members would serve without pay, however, travel and per diem would be paid when attending to Commission business as determined by the Chairman.

Activities of each Commission would be as follows:

- (1) The Chairmen of the four regional commissions would form a board called the Water Transportation Board (WTB).

The WTB will be required on January 31 of each year to submit to Congress a report recommending:

- (a) Operations and maintenance and funding levels for each waterway segment;
- (b) Recommended new start construction initiatives; and
- (c) Planning and design for new initiative.

The WTB would also, as part of the annual report, include a projection for the subsequent fiscal year.

The WTB report would be submitted by the Chief of Engineers. Each Water Transportation User Commission would submit its recommendation for inclusion in one report to Congress. The role of the Corps will be simply ministerial.

- (2) Each commission would be required to have its recommendations included as an addendum to all project reports (ie., those of the District or Division Engineer) and the Chief of Engineers reports

submitted to Congress which would require a fee from users of navigation projects.

- (3) Each commission would oversee the reevaluation of the allocation process as outlined in Part III of this paper.
- (4) Each commission would decide every five-years as to how segments of the region should be aligned, divided, or consolidated, as outlined in Part IV of this paper.
- (5) Each commission could make recommendations as to general policy or other matters of interest to the users of a particular region.

F. Phase In Cost Recovery

Upon imposition of a ton-mile charge on the users of waterway projects, the present fuel tax now imposed on commercial waterway vessels by Public Law 95-502 must be rescinded. The funds presently in the existing Inland Waterways Trust Fund would be authorized to pay the proportional charge for capital costs of future new structures as outlined in this paper.

The initiation of a navigation cost recovery mechanism would be a historic change in the conduct of federal policy. We do not dispute

that federal policy can, and in many cases should, change. We do believe, however, that change should evolve over a period of years -- not over night. Any mechanism for cost recovery of navigation projects should be gradually phased in over a period of at least 25 years. After rescinding the present fuel tax, an estimated ton-mile charge could be used to equate to the present level of fuel tax. The phase in period would start from that level.

The abrupt imposition of any high level of increased taxes or fees on the waterways industry, and their ripple effects, would be devastating to communities, industries, investments, and individual citizens, as well as to the inland marine industry. If a change in national policy is legislated, it must be phased in over a gradual period of time, so as not to be totally disruptive to existing investments and trading patterns. Not only could the commercial inland waterways industry be dramatically and adversely impacted, but also the agricultural and industrial interests they serve would suffer if a radical change is made.

VI Project Authorization --

Navigation projects presently have a lengthy process of authorizations and appropriations that takes a generation to complete work on a given structure from original planning to final construction. If users are willing to pay, there must be an expedited

method to allow the decision making procedure to move forward in a more timely and orderly manner.

Under the foregoing methodology developed in this paper, all individual and system projects which are presently underway would be grandfathered. Additionally, at a minimum, we would suggest that the second lock at Lock and Dam #26 near Alton, Illinois, Gallipolis Lock, Oliver Lock, and Bonneville Lock be authorized for construction. However, the costs of these projects would be subject to the formulas which have been outlined.

Other projects which have cleared the Chief of Engineers office favorably would be authorized in concept, subject to a review for alternatives and prioritization by the regional Water Transportation User Commissions.

VII Conclusion --

We believe our industry and Congress must put to rest the confrontations of how we are to go about maintaining the shallow draft navigation system in this country. The shippers on our rivers and canals need a first class waterway system. At the same time the users of those waterways need the ability to exercise a degree of control over the expenditures by the federal government for which our industry

is taxed. A "user pay - user say" program must be developed and implemented by those directly using the waterways and paying for its upkeep. Such a program can only be made economically efficient by looking at our rivers and canals on a defined regional and segmental basis with a set formula for recovery of O and M and capital costs.

Our navigation industry must not become saddled with unprofitable branch arteries which might cost more to maintain than would be economically feasible if one were viewing the waterways as we would our own private businesses and making business decisions as to its future. This problem existed in the railroad industry when unproductive branch lines had to be maintained and serviced even when they generated losses. With the passage of the Staggers Act in 1981, the railroads were successful in arguing that they needed the freedom to manage their trackage system in the manner which was most economically advantageous to them. Fairness and equity requires that if we are obliged to pay for maintaining the waterways, we be allowed to have the same freedom to manage the economic decisions of the navigation system as the railroads do for their right-of-way, only paying for that portion of use which is directly attributable to our operations.

We believe the program outlined in this paper addresses all the major problems associated with cost recovery of the navigation system expenses. If the plan is adopted, it should put the issue behind us for the foreseeable future and allow us to focus our energies on the job of building, maintaining, and operating the inland navigation system of this country as economically and efficiently as possible.

APPENDIX TO TESTIMONY OF CHARLES F. LEHMAN
BEFORE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
25 JANUARY 1984

USER COST RECOVERY ANALYSIS

REGION - GULF INTRACOASTAL WATERWAY AND WATERS FLOWING INTO IT (INCLUDING MISSISSIPPI RIVER AND ITS TRIBUTARIES).

WATERWAY SEGMENT	A SEGMENT MILEAGE	B 1980 O & M EXPENSES	C 1980 TON-MILES (000)	D EMERGING WATERWAY FACTOR	E 1980 FACTORED TON-MILES (000)
	(-----)	(-----)	(-----)	(-----)	(-----)
ALABAMA-COOSA RIVERS-----	313	3017500	153288	1.00	153288
ALLEGHENY RIVER-----	72	3090600	74904	1.00	74904
APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS-----	297	4529600	81956	1.00	81956
ARKANSAS RIVER-----	448	12407300	1819076	5.319	9675665
BLACK WARRIOR, WARRIOR, AND TOMBIGREE RIVERS-----	428	12149700	5175059	1.00	5175059
CUMBERLAND RIVER-----	382	9708800	1030867	1.00	1030867
GREEN AND BARREN RIVERS-----	180	1213000	752428	1.00	752428
GULF INTRACOASTAL WATERWAY-----	1173	20496400	17688491	1.00	17688491
ILLINOIS WATERWAY-----	354	12056600	8798705	1.00	8798705
KANAWHA RIVER-----	91	2551400	872623	1.00	872623
KASKASKIA RIVER-----	36	710900	51094	9.775	499444
KENTUCKY RIVER-----	255	2194500	19058	1.00	19058
UPPER MISSISSIPPI RIVER (OHIO RIVER TO MILE 858)---	858	45718900	31152861	1.00	31152861
LOWER MISSISSIPPI RIVER (BATON ROUGE TO OHIO RIVER)	718	55270300	88336863	1.00	88336863
MISSOURI RIVER-----	2073	8325000	1335309	1.00	1335309
MONONGAHELA RIVER-----	129	4972700	1507006	1.00	1507006
OHIO RIVER-----	981	28492100	38713852	1.00	38713852
OUACHITA AND BLACK RIVERS-----	336	3111000	97407	1.00	97407
PEARL RIVER-----	58	139300	964	1.00	964
RED RIVER-----	456	211000	92007	15.965	1468892
TENNESSEE RIVER-----	650	4755600	5330100	1.00	5330100
WHITE RIVER-----	199	674200	84916	1.00	84916
REGION TOTAL-----			203170000		212850000

COLUMN A -- SEGMENT MILEAGE

Length of waterway available for commercial navigation.

COLUMN B -- O AND M EXPENSES

Corps of Engineers total 1980 operations and maintenance navigation account expense on the segment listed.

COLUMN C -- 1980 TON-MILES

Ton-miles of freight moved on segment listed as derived from Corps of Engineers waterborne commerce statistics.

(Revised 2/6/84)

COLUMN D--EMERGING WATERWAY FACTOR

Actual 1980 ton-miles generated on the segment vs. the expected ton-miles for the segment when the waterway would be fully utilized.

<u>SEGMENT</u>	<u>ESTIMATED CAPACITY TONNAGE</u>	<u>ACTUAL 1980 TONNAGE</u>	<u>RATIO OF FULL UTILIZATION</u>
ARKANSAS	45,000,000	8,461,000	5.319
KASKASKIA	20,000,000	2,046,000	9.775
RED RIVER	27,700,000	1,735,000	15.965

All other segments listed were considered mature, even though they may not have reached the level of capacity for which they were designed. Therefore, mature segments reflect actual ton-miles for 1980.

COLUMN E--1980 FACTORED TON-MILES

This number shows Column D (Emerging Waterway Factor) multiplied by Column C (1980 Ton-miles) to reflect fully utilized ton-mile capacity of emerging waterways.

(Revised 2/6/84)

APPENDIX TO TESTIMONY OF CHARLES F. LERMAN
BEFORE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
25 JANUARY 1984

WATERWAY SEGMENT

ALLOCATED OPERATIONS AND MAINTENANCE
COSTS (\$)
(ALLOCATED EMERGING WATERWAY O & M
COSTS DIVIDED BY EMERGING WATERWAY
FACTOR)

	F 30%	G 50%	H 70%
ALABAMA-COOSA RIVERS-----	905250	1508750	2112250
ALLEGHENY RIVER-----	927180	1545300	2163420
APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS-----	1358880	2264800	3170720
ARKANSAS RIVER-----	699791	1166319	1632846
BLACK WARRIOR, WARRIOR, AND TOMBIGBEE RIVERS-----	3644910	6074850	8504790
CUMBERLAND RIVER-----	2912640	4854400	6796160
GREEN AND BARREN RIVERS-----	363900	606500	849100
GULF INTRACOASTAL WATERWAY-----	6148920	10248200	14347480
ILLINOIS WATERWAY-----	3616980	6028300	8439620
KANAWHA RIVER-----	765420	1275700	1785980
KASKASKIA RIVER-----	21818	36363	50908
KENTUCKY RIVER-----	658350	1097250	1536150
UPPER MISSISSIPPI RIVER (OHIO RIVER TO MILE 858)---	13715670	22859450	32003230
LOWER MISSISSIPPI RIVER (BATON ROUGE TO OHIO RIVER)	16581090	27635150	38689210
MISSOURI RIVER-----	2497500	4162500	5827500
MONONGAHELA RIVER-----	1491810	2486350	3480890
OHIO RIVER-----	8547630	14246050	19944470
OUACHITA AND BLACK RIVERS-----	933300	1555500	2177700
PEARL RIVER-----	41790	69650	97510
RED RIVER-----	3965	6608	9251
TENNESSEE RIVER-----	1426680	2377800	3328920
WHITE RIVER-----	202260	337100	471940
REGION TOTAL ALLOCATED COST-----	67465734	112440000	157420000
REGION TOTAL ALLOCATED COST PER TON-MILE (Columns F, G, and H each divided by Column C)	\$0.00033	\$0.00055	\$0.00077

COLUMNS F, G, H -- ALLOCATED OPERATIONS AND MAINTENANCE COSTS
These columns show 1980 operations and maintenance expenses (Column B) for the Corps of Engineers navigation and MRT accounts multiplied by the listed allocation percentage column (30%-50%-70%) divided by each segment's emerging waterway factor (Column D).

(Revised 2/6/84)

APPENDIX TO TESTIMONY OF CHARLES F. LEHMAN
BEFORE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
25 JANUARY 1984

WATERWAY SEGMENT	50% REGIONAL ALLOC BASIS 50% SEGMENT ALLOCATION BASIS (PERCENT) I
-----)(-----)	
ALABAMA-COOSA RIVERS-----	5.6
ALLEGHENY RIVER-----	2.7
APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS-----	2.0
ARKANSAS RIVER-----	86.3
BLACK WARRIOR, WAKRIOR, AND TOMBIGBEE RIVERS-----	47.1
CUMBERLAND RIVER-----	11.8
GREEN AND BAKEN RIVERS-----	68.7
GULF INTRACOASTAL WATERWAY-----	95.5
ILLINOIS WATERWAY-----	80.8
KANAWHA RIVER-----	37.9
KASKASKIA RIVER-----	77.8
KENTUCKY RIVER-----	1.0
UPPER MISSISSIPPI RIVER (OHIO RIVER TO MILE 858)---	75.4
LOWER MISSISSIPPI RIVER (BATON ROUGE TO OHIO RIVER)	176.9
MISSOURI RIVER-----	17.8
MONONGAHELA RIVER-----	33.5
OHIO RIVER-----	150.4
OUACHITA AND BLACK RIVERS-----	3.5
PEARL RIVER-----	0.8
RED RIVER-----	770.6
TENNESSEE RIVER-----	124.1
WHITE RIVER-----	13.9

Column I shows the percent of allocated segment O and M expenses which would be recovered based on the allocated regional fee, if each segment of the region as well as the region itself, each had a 50 percent allocation to commercial navigation.

The column represents the operation and maintenance economic test to show if a segment returned at least 20 percent of the cost of O and M expenses as reflected by ton-miles moved on the segment. This is only an illustration of allocation sensitivity as the allocation percentages for the region and each individual segment could be higher or lower.

(Revised 2/6/84)

APPENDIX TO TESTIMONY OF CHARLES F. LEHMAN
BEFORE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
25 JANUARY 1984

WATERWAY SEGMENT	J	K
	CONSTRUCTION FEE PER TON-MILE @ 2% INTEREST (INCLUDES REGIONAL AND SEGMENT FEE)	REHABILITATION FEE PER TON-MILE @ 2% INTEREST (INCLUDES REGIONAL AND SEGMENT FEE)
-----)	(-----)	(-----)
ALABAMA-COOSA RIVERS-----	.0103877	.0019963
ALLEGHENY RIVER-----	.0212501	.0040838
APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS-----	.0194223	.0037325
ARKANSAS RIVER-----	.0001719	.0000330
BLACK WARRIOR, WARRIOR, AND TOMBIGBEE RIVERS-----	.0003149	.0000605
CUMBERLAND RIVER-----	.0015510	.0002981
GREEN AND BARREN RIVERS-----	.0021222	.0004078
GULF INTRACOASTAL WATERWAY-----	.0000974	.0000187
ILLINOIS WATERWAY-----	.0001883	.0000362
KANAWHA RIVER-----	.0018309	.0003519
KASKASKIA RIVER-----	.0031933	.0006137
KENTUCKY RIVER-----	.0834979	.0160464
UPPER MISSISSIPPI RIVER (OHIO RIVER TO MILE 858)---	.0000586	.0000113
LOWER MISSISSIPPI RIVER (BATON ROUGE TO OHIO RIVER)	.0000255	.0000049
MISSOURI RIVER-----	.0011991	.0002304
MONONGAHELA RIVER-----	.0010633	.0002043
OHIO RIVER-----	.0000486	.0000093
OUACHITA AND BLACK RIVERS-----	.0163426	.0031407
PEARL RIVER-----	1.650588	.3172048
RED RIVER-----	.0010907	.0002096
TENNESSEE RIVER-----	.0003060	.0000588
WHITE RIVER-----	.0187455	.0036025
-----	-----	-----
AVERAGE REGIONAL FEE PER TON-MILE	\$0.000007	0.0000016

COLUMN J--The construction fee for segment and region per ton-mile for each \$100,000,000 of allocated new construction amortized over a 50 year period based on an interest rate of 2 percent.

COLUMN K--The rehabilitation fee for segment and region per ton-mile for each \$10,000,000 of allocated rehabilitation cost amortized over a 20 year period based on an interest rate of 2 percent.

(Revised 2/6/84)

Testimony of the
National Coalition for Port Progress

Mr. Chairman, thank you for this opportunity to appear before the subcommittee once more. As you know from our previous appearance, the National Coalition for Port Progress is a coalition of major United States seaports, a list of which is appended to this statement.

The Coalition has testified previously in support of 100% federal responsibility for channel work funding, except in the case of projects deeper than 45 feet in which case the local level would share 50% of the costs. In addition, our ports seek legislation to dedicate a portion of annual customs receipts toward the federal share of the deepwater channel program. Finally, procedural and regulatory reforms are sought to streamline the permit and construction programs.

As expressed in our Coalition's letter to Chairman Abdnor on November 4 of last year, we applaud the committee's work in arriving at legislation representing a compromise among the strongly held views in the Senate. We are particularly pleased that the committee reported a bill that retains the federal responsibility for maintenance work. It is absolutely essential that the federal responsibility for that aspect of the navigation program continue both as a policy and as an effort to achieve acceptable compromise legislation.

The provision to speed up the permitting process is also very welcome and necessary in any port development legislation. While we recommend some important additional provisions in both authorization and regulation, the language in section 1007 is also to be applauded.

The Coalition is hopeful that with the action by the committee it signals the committee's commitment to seek enactment of a port development bill by the end of the year and an end to the stalemate we have seen in water project authorizations. The Environment and Public Works Committee has the active support of the Coalition toward that end.

There are aspects of the legislation which concern the member ports of the Coalition. The following are raised for your consideration:

- o The concept of a commission is generally good but we would like its mandate to be broadened to first determine whether cost-recovery on maintenance is a wise policy, and then make recommendations to Congress.
- o We believe it unwise to place a cap on annual O&M spending particularly if it is retained pending congressional action on the advice of the commission. If the committee is intent on setting a cap, let the cap be in effect only as long as it takes the commission to make its report to Congress. Based on the performance of Congress, we could be faced with rigid ceiling on O&M spending for a decade before Congress finally acted on a new channel maintenance policy.
- o The approach of a 30% local share for general cargo harbor projects is not satisfactory. The Coalition seeks the funding policy to which we have already testified.

- o The requirement of 100% local costs for projects deeper than 45 feet is unreasonable and should be amended to require at worst equal sharing of project costs. As for the favorable provisions given the Baltimore channel project, (30% local share) we would suggest that the Congress should adopt one policy to be applied to all ports in the spirit of the Constitution. We would welcome the 30% provision.
- o The Coalition supports a 50-year payback period of the local entity to reimburse the Federal government and believes that it should be applied to all local cost-sharing requirements. In addition, the cost of dredge material disposal, such as in the construction of a containment facility, should be included in the total project cost.
- o The bill does not authorize projects deeper than 45 feet, however those projects, proposed and future ones, will not all be starting from a depth of 45 feet. Consequently, in the legislation, such projects are not eligible for federal cost-sharing for the project portion down to 45 feet. It is recommended that such projects that are otherwise eligible be authorized.
- o In the absence of direct federal funding or projects deeper than 45 feet, the loan guarantee provision is welcome although the Coalition, frankly, remains uncertain as to how useful the guarantee would be in making financing possible, particularly at 70% of the project costs. It is our collective gut feeling that a higher percentage, perhaps tracking the Title XI program level, would be essential. Finally we would ask the committee to consider extending guarantee provisions to the shallower projects if the 30% cost-share is retained.
- o As for the permitting provisions, the two-year permit process would be a welcome change to the present system, although we would urge even speedier treatment by the federal agencies. Two definite improvements we would suggest include requiring the appropriate federal agencies to participate in a consolidated process and adding some mechanism, perhaps automatic permit approval, which would make the two-year goal more enforceable.

One major concern the Coalition has with the legislation is the limitation on local fees. Ports do not want to make it more expensive to operate in their harbors. New charges in a port would be assessed only where absolutely necessary and in a way that would keep that port competitive. This is particularly true today when the ocean shipping business is in particularly bad financial condition and port competition is greater than ever before.

The federal funding of navigation projects has always been dependent on favorable benefit-cost ratios which take into account all beneficiaries over a long term. Indeed, this legislation authorizes projects on the basis of that analysis. It is therefore illogical and inequitable for the legislation to apply a different standard, such as the direct beneficiary requirement, to the local share.

The direct beneficiary rule for the assessment of user charges promises to make it very difficult if not impossible for project costs to be recovered through user charges. Rather, the legislation should allow maximum flexibility to the non-federal entity to assess reasonable port-charges as the specific situation warrants. Reasons for that view, in no particular order, include:

(1) Beneficiaries of any given project are not limited only to the specific user of the project depth of that channel. Projects benefit a wide range of economic activity at all levels of the port community and beyond. Direct and indirect employment increases might be seen with the added business an improved channel might bring.

The deepened channel may make for safer navigation of the port by ships that are not dependent upon the greater depths but for which the added margin of safety is very useful. There may be less chance of collisions, oil spills and other accidents.

Barge firms, ship chandlers, shipyards and other businesses could benefit by increased traffic in the port. Even outside the port, shippers such as coal companies or manufacturers and their employees may find their products more attractive to the export market if transportation costs are less with the use of larger ships. Certainly they all could be beneficiaries of the improved channels.

(2) Another problem with the direct beneficiary policy expressed in the bill is that not all channel projects are deepenings. The widening of the Houston Ship Channel is a good example of a project whose costs would have no relationship whatsoever with the draft of the vessels making use of it. Would the 80% rule apply in this instance to only wide or long ships? What lengths and widths make a vessel directly or indirectly benefitting?

(3) Channel improvement projects and the associated land-side development in ports are long-term undertakings. Even with a completed channel deepening, it may take five or ten years for the traffic to develop to the point of making efficient use of the project depth. Under the direct beneficiary rule, the first few years of a deepened channel may see only a small number of vessels which could not be expected to bear the local share by themselves. While the committee would allow a phase-in of fees, much greater flexibility is needed.

(4) If the committee's goal is port charges representative of the market place, the local entities should be able to determine charges that take into consideration the local and regional economy, the port condition and other factors peculiar to their ports. The recommended charges would be reviewed and considered in public hearings which is, and should be, required by the legislation.

(5) The greater the specificity in statutory language defining beneficiaries the greater the incentive for vessels to evade fees through light-loading and similar strategies. In addition, and as a practical matter, chances for litigation greatly increase with such specificity.

(6) A port is an integrated network of channel, marine terminals, railroads and highway access routes. A port cannot be divided into segments, each segment required to stand on its own merits. Revenue return on individual facility type varies. Those with less revenue return may provide greater employment opportunities (e.g., breakbulk versus container or bulk handling) or may meet a needed public purpose.

Therefore, ports generally pool their facility revenues and expenses and use consolidated revenues as a basis for selling port revenue bonds. Usually the port's entire credit base supports bond sales regardless of how the bond revenues will be utilized. Port tariffs for facilities use are equalized within a port, and quite frequently are equalized among a number of ports in a region.

Requirements that a percentage of local costs for channel improvements be applied only against the direct users of that channel are inconsistent with the port economic philosophy described above.

(7) Candidly, the reason that the Congress is considering local cost-sharing and user charges is because the government wishes to reduce the federal share of channel costs for budgetary reasons. In other words, the user fee issue is not motivated solely by an interest in applying fine user-pay concepts of economics. In shifting the burden it is therefore not fair to tie the hands of the non-federal entity in how it would recover its share of the costs by dictating direct-beneficiary rules.

(8) Finally, we ask the committee to be mindful of the responsibility of the public port authority. It is a public authority serving a public purpose. It is not a private concern. It must plan for future development. It must anticipate trade opportunities and vessel technology by as much as twenty years in advance for a port to remain competitive and serve those direct and indirect beneficiaries enumerated earlier. Port directors cannot be shortsighted and judge a channel or landside improvement by its short term performance and pay off. The public interest is not necessarily served in such a way. Port authorities cannot plan for the prospective needs of port users with restrictions on their ability to get the work done.

The Coalition would like to close this statement by again thanking the committee and its chairmen and ranking members for their efforts in producing port legislation. We support your work.

If there is perhaps one thing we would like to impart to you and your colleagues in the Senate it is the need to advance the water resources legislation to the Senate floor and then the conference committee this year.

That investment in our nation's port system is at a crawl and is directly attributable to the inaction on the part of Congress over these past seven years. If your colleagues follow your lead this session of Congress, we will finally see legislation become law in 1984.

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MEMBERS

The Port of Long Beach

The Port of Los Angeles

The Port of Oakland

The Port of San Francisco

The Port of New Orleans

The Port Authority of New York
and New Jersey

The Department of Ports and Terminals
of New York City

The Port of Brownsville

The Port of Galveston

The Port of Seattle

The Port of Tacoma

The Port of Stockton

Testimony of
Al Cisneros
General Manager and Port Director
Brownsville Navigation District
Port of Brownsville, Texas
(Brazos Island Harbor Project)

Mr. Chairman and Members of the Committee:

Thank you for giving me this opportunity to testify before this important Committee. My testimony is focused on five issues which we consider most important:

1. You need to consider the perspective of a small port with plans to be a deep-draft port.
2. You need to respond to the needs of one of the poorest regions of the United States presently suffering severe economic hardship and help us provide the economic stimulus which will have a key synergistic effect with other Federal Government efforts to help the citizens of South Texas living on the U.S./Mexico border.
3. You need to be aware of the critical situation in Northern Mexico which could endanger our nation's well-being, our security, and possibly our National Defense at some point in the future if we do not act now.
4. You need to be made aware of the fact that a major private financial investment is being held dormant because of the Congressional uncertainty on the issue of the future role of the U.S. Federal Government in deep-water port development. and
5. You need to be made aware that as a small port authority, we have always been and are now prepared to carry our share of the load, the leadership, and the effort to develop a first-class, deep-water port.

Mr. Chairman, I now wish to expand in each of the five aforementioned points.

1. I appeared earlier in this hearing as one of the members of the National Coalition for Port Progress which is generally considered to be made up of the largest ports in this country. The Port of Brownsville has always been a member of this Coalition because it has plans and the opportunity to become a deep-draft port. Our thinking is consistent with the other major ports of the country in that the Federal Government should continue its role in providing 100% of the construction and operations and maintenance (O&M) of our nation's harbors down to 45 feet.

We also agree that user fees are already being collected in the form of Customs duties and tonnage taxes on the vessels which enter our ports. For example, in F.Y. 1981, Customs collections at Brownsville were \$18.4 million. We strongly believe that some of these funds should be earmarked to improve our port in order to further increase our foreign commerce. We concur with the National Coalition for Port Progress on its position regarding cost sharing on the deeper projects. We are prepared to share costs as long as there is a sharing of revenues as well.

We also believe it is fundamentally important that local port authorities retain the ability to issue tax-exempt port development bonds to finance port facilities for the public's use. This traditional financing method has proven to be an efficient and effective method of attracting private capital to finance public facilities, allowing us to remain competitive in the limited financial markets.

As you deliberate the major issues brought to your attention by the major ports of this country, it is imperative that this Committee establish a federal port policy that allows the small developing port an equal opportunity to develop and be competitive in the marketplace for the benefit of the citizens of its immediate region. The future growth needs of the small ports must also be carefully considered.

2. The Rio Grande Valley of Texas is presently suffering severe economic hardship due to the collapse of the Mexican economy and extreme weather conditions which have seriously hurt agriculture in this region. Unemployment varies from 18 to 24 percent in the various South Texas counties in our immediate hinterland. Vice President George Bush is heading up a special task force to deal with the U.S./Mexican border development problems. We have participated in meetings with representatives of the Department of Agriculture, Economic Development Administration, Small Business Administration, and the Department of Defense. Without question, all of these federal representatives concurred that the deepening of the Brownsville Ship Channel was essential in attracting major private capital investment which would provide the type of economic stimulus needed in this region.

The U.S. Army Corps of Engineers has been recommending, since 1976, that our channel be deepened to 42 feet. Since no Water Resources Bill has been passed in the last eight years, no progress has been made in accomplishing that goal. If anything, this Committee is strongly urged to get the project authorizations recommended by the Corps of Engineers passed in this legislative session. We urgently need your help to get this matter moving forward.

3. The deepening of the Brownsville Ship Channel and the relocation of the railroads in the Brownsville area are but two of several infrastructure projects planned for this area. Other needs include new international bridges, a water conservation dam, and the development of a major industrial park. All of these projects are vitally important to help stimulate private investment in Brownsville, Texas/Matamoros, Mexico area. Approximately half-a-million people live on each side of the border within 50 miles of here. This population is expected to double by the Year 2000. Private investment is badly needed to create the jobs for these people, but the basic infrastructure must come first.

Mexico faces one of the most critical periods in its history. The Free Enterprise System is an endangered species in Mexico. If it collapses and dies, there will be massive unemployment and social unrest which could lead to political and military revolution. This is the major concern of the leaders of South Texas. I feel it is important that members of the U.S. Senate recognize this fact. If Mexico's economic system were to collapse, it too, could be subject to Communist-lead instability, terrorism, and guerrilla warfare. These events could certainly endanger our nation's well-being, our security, and possibly our national defense if we do not act now. To make a Public Works capital investment now, which in turn will stimulate private capital investment and the creation of jobs, is the only sure way to create industry and develop trade between our two nations. As you well know, "soldiers seldom cross borders where there is free trade". We must act now.

4. The Port of Brownsville is presently being considered by a multinational corporation for the establishment of a modern \$600 million oil refinery. Our port was selected because of its strategic location, and because its ability to locate such a plant in an environmentally sound manner. This project is financially feasible with a deeper channel. In fact, \$1.8 million has already been spent by local interests in the environmental studies and preliminary engineering reports. A permit was granted by the U.S. Army Corps of Engineers in October 1982 to construct a 55-foot deep harbor, nine miles up the Brownsville Channel, to receive crude oil and handle bulk materials. The permit also allows us to deepen the remaining eight miles to a depth of 45 feet. The investors of this project are willing to help guarantee the repayment of a large portion of the port development bonds which the Brownsville Navigation District plans to issue to finance this project. We need to have the Federal Government's role in this project clearly identified through the passage of this new Water Resources legislation. We want the intent of the Congress to be known to the Corps of Engineers as soon as possible so that the investors of this project can make their final commitments to enable us to get the project underway.

Rather than having the local port pay the Federal Government back over a 50-year period, perhaps you should consider allowing the Local Port Authority to finance it with the issuance of tax-exempt port development bonds and provide a Federal Government guarantee to repay back a substantial portion of these bonds by reimbursing the Local Port Authority over a 20-year period. We propose a 50-50 cost sharing between the Federal Government and the local interests in our case. This lightens the burden on the federal budget and allows spreading the capital cost over a reasonable period of time. In this manner, all interested parties would benefit.

5. In conclusion, we believe that these port improvement projects can be advanced by the local port authority in a timely manner responding to the needs of local industry and their communities needs. We are prepared to carry our share of the responsibility for harbor development. We are willing to share the cost if the Federal Government is willing to share the revenues generated through these port facilities. We have always had an excellent relationship with the Federal Government and its various federal agencies. We have always met our financial commitments to those financial institutions who have had faith in our development.

We are now facing some of the greatest challenges in our history, and we urge the Congress to respond to our needs. It is imperative that we develop a first-class deepwater port at Brownsville to insure sound economic growth in the region. Our failure to do so could be a grave error.

TESTIMONY OF

DR. DAVID CAMPBELL
Resource Economist

National Wildlife Federation

I am pleased to be here today on behalf of the National Wildlife Federation, the Nation's largest conservation organization with four million members and supporters nationwide.

Our membership is aware of the immense contribution that the Federal investment in waterways and ports makes to the movement of goods within the Nation and to other countries. But overinvestment or misplaced investments in our transportation network weaken our economy. Identification of the worthwhile investments through a pricing system can direct resources to those investments that will increase the overall efficiency of the Nation's transportation network. Therefore, we support the enactment -- indeed the strengthening -- of Title V, of S. 1739, which authorizes the Secretary of the Army to recover and obligate user charges for annual expenditures on inland waterways that exceed \$646 million.

I have three brief points to make this morning that support our position.

Impacts of Waterway User Fees

The opponents of user fees claim that several shipper groups, such as grain farmers, would be harmed by user fees. However, the users would be required to pay only a portion of the total annual costs of the inland waterway system under the provisions of the bill. According to estimates submitted to the Committee by the Corps of Engineers, total inland waterway

costs will range from \$652 million to \$891 million between 1987 and 1994. The percentage of the total costs above \$646 million that would be recovered from users would range from 1% to 27-1/2%. These percentages are far less than full recovery.

If the increase in user fees is equal to 3¢ per bushel for grain shipments this will still be less than the everyday changes in other factors that affect farm income. For example, last Thursday, March soybeans futures rose 5-1/2¢ per bushel and March wheat futures fell 6¢ per bushel. We have recently completed an analysis of the Corps of Engineers data on traffic at the Gallipolis Lock on the Ohio River. We found that the level of shipments was much more affected by steel demand, the health of the economy, etc. than by changes in the price of barge services.

Construction Commitments

Congress ought not over-commit to a new round of construction now that will lead to a high level of expenditures in later years. If inland waterway costs become significantly higher than the cap of \$646 million, pressures will be exerted on the Congress to raise the cap. Two things should be done to avoid this situation in later years. The cap should be invoked in FY 85, instead of FY 86, to avoid a "free" year for initiating a large number of new projects. Also, the cap should be progressively lowered, as with the Simpson amendment, to establish that users are indeed expected to repay the costs of new construction of inland waterway projects.

Cost Allocation

The allocation of costs among purposes at multipurpose projects will become a more important issue after the passage of S.1739 because the bill will increase the costs to be shared by non-Federal entities. The case-by-case cost allocation method may have been sufficient when cost sharing was low, but serious conflicts will soon arise among user groups if Congress does not mandate a consistent allocation policy.

For example, there are several Corps feasibility reports now pending before Congress which recommend the construction of hydropower facilities at existing locks and dams. If the costs of joint use features, such as the existing low head dams, are to be allocated to hydropower from other purposes, the navigation costs that need to be recovered from user fees could be reduced. Conversely, power repayment obligations would be greater than would otherwise be the case.

This Committee should anticipate and reduce forthcoming conflicts regarding cost allocation. One way would be for the Congress to simply decide such cost allocation issues right now, as a matter of law. Another option, and one that we recommend, is to charge the National Water Policy Board with the responsibility for promulgating rules for the Corps and other Federal agencies in allocating costs of all Federal water projects in a consistent way among purposes and among agencies. In any event, such rules should be developed through a public notice and comment process that will allow for full

input from the states, private sector interests, and the general public.

After the enactment of S. 1739, cost allocation will become too important to leave to some "black box" administrative formulae of uncertain application.

Conclusion

Increased cost sharing and user fees will reduce the present distortions in the functioning of the private economic system resulting from the Federal investment in navigation projects. This Committee is to be commended for its first steps regarding these issues as embodied in S.1739.

STATEMENT OF DAVID CONRAD, WASHINGTON REPRESENTATIVE FOR FRIENDS OF THE EARTH, BEFORE THE SUBCOMMITTEE ON WATER RESOURCES, SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE, REGARDING OVERSIGHT RELATING TO COST-SHARING AND USER FEES FOR PORTS AND INLAND WATERWAYS CONSTRUCTED AND MAINTAINED BY THE U.S. ARMY CORPS OF ENGINEERS, JANUARY 25, 1984

Mr. Chairman, my name is David Conrad. I serve as Washington representative of Friends of the Earth, a national conservation organization of more than 30,000 members located in all 50 states. Many of our members are especially concerned about the pressing need for cost-sharing and user fee reforms in the federal water resources development programs.

It doubt it would surprise the members of this Committee that environmentalists are strongly supportive of cost-sharing for port and harbor development and user fees for inland waterways. But I would like to review our rationale for such support, if only in the briefest way, and relate our concerns to the legislation the Committee has recently reported.

The development of harbor and inland waterway projects historically has been accompanied by severe environmental impacts, sometimes resulting in total alteration of natural riverine and riparian habitat along major reaches of the premier rivers and coastal areas of this nation. For instance, the Missouri River Bank Stabilization and Navigation project has turned the myriad of channels and islands that once provided habitat of enormous value for propagating fish and wildlife into a single deep channel, supporting neither the number nor the diversity of fish and wildlife as in the past. In the state of

Missouri alone, 56,000 acres of wetlands were lost to this project and 98% of the river islands are now gone. The scouring caused by the project design has lowered the riverbed, threatening some municipal and industrial water supply systems. And flood levels have been dramatically increased due to channel constriction.

The dams on the Upper Mississippi System have flooded huge acreages of formerly intermittent wetlands and changed or destroyed entire communities of wildlife. What little remains of undisturbed midwestern wilderness lands often become the lands sought for dredge disposal sites. The constant dredging and barge traffic have increased river turbidity, eutrophication and exacerbated toxics and heavy metals problems in the water and at dredge dump sites.

Such problems are undoubtedly known to this Committee and can be found around navigation projects at both ports and inland waterways across the country.

We are extremely grateful to the members of this Committee for their leadership in helping to see to it that mitigation for environmental damages will take place in future projects. But in many instances, the damages can never be fully mitigated.

The current methods of financing projects with only the most minimal of cost-sharing by users and sponsors is in our view causing large-scale, often needless environmental degradation--the public is paying for a gold-plated Rolls Royce

waterway system where a good Buick would do, with far less cost and environmental damage.

GOOD ECONOMICS IS GOOD ENVIRONMENTAL POLICY

In yesterday's hearing, the Chairman asked for suggestions of improvements in how to deal with cost-sharing.

The context of what we are facing is etched out in the draft of the National Waterways Study conducted for the Congress by the Corps of Engineers. The study shows a smorgasbord of more than \$22 billion dollars of canal dredging, lock expansion, rehabilitation and channel maintenance projects and operations on inland waterways alone through the year 2013. Members of this Committee have pointedly questioned both the need for this enormous amount of work and certainly whether the federal government has the resources to accomplish it. We echo the concerns of the Committee both as taxpayers and as people concerned about the environmental consequences of such massive schemes.

We believe the user fee proposal in Title V of S.1739, if enacted, would fail to cause a fair or meaningful sharing of costs by waterway users, both because the "cap" is too high and would be subject to manipulation. As a result, no environmental benefits could be expected since the desired improved scrutiny of both the economics and designs of projects by the communities and companies that use them would not take place.

In November, Senator Simpson offered an amendment to

gradually decrease the degree of federal subsidy to inland waterway shippers by decreasing the cap in the bill. We supported this change at the time and will continue to support it.

The \$646 million cap derives from the second highest year of inland waterway expenditures in U.S. history, swelled by three major new construction projects: Tennessee-Tombigbee, Red River Waterway and L&D 26 on the Mississippi. Although we are more inclined to support Senator Simpson's approach, an alternative that would quickly establish more meaningful user charges would be to reduce the cap by the equivalent FY 1983 expenditures for the above three construction projects.

Another concern we have regarding the cap is that under some future circumstances project cost "reallocations" might be made to emphasize other elements such as flood control or land drainage over navigation. In any such instances the "cap" should be lowered to reflect the reallocation away from navigation. The bill or report language should be as unequivocal as possible on this point. We would not support indexing the cap as some have suggested in the course of these hearings.

The Committee bill establishes a Waterway Users Board to advise the Secretary of the Army on needed levels of expenditure and the best means of imposing user fees to meet revenue requirements. In general, we feel this is a reasonable mechanism to force waterway users to make realistic choices for the future of the waterway system. We would request that the Committee

consider, however, that there are many other users of and interests in waterways than simply navigation, and that the composition of such a Board should show at least some recognition of these other interests.

Regarding the port provision of S. 1739, it is our view that the up-front local cost-sharing requirements make the bill's approach superior to that of S. 865 and the corresponding House legislation. It is vexing, however, that S. 1739 fails to come up with any plan to share port operations and maintenance for general cargo ports, while authorizing 22 new port projects at a federal cost of nearly \$900,000,000. As in the waterway section, the cost-recovery is still far below that proposed by the Reagan Administration--proposals which we feel are responsible and could be made to work fairly if the will were there to see them through.

Mr. Chairman, all evidence shows that when users sense they may have to pay for projects, the project designs quickly become utilitarian. This was clearly a factor in the recommendations of Louisiana Governor Treen's Task Force on the Mississippi River Ship Channel, Baton Rouge to Gulf of Mexico, and the recent plans to stage the development of the Norfolk Harbor project.

There is much savings to be had in the existing system. For instance, a 1979 University of Pennsylvania doctoral thesis analysed 52 Corps commercial navigation projects initiated between 1945 and 1979 and found only 9 (17%) that showed any net benefits. A market test would identify those that no longer

merit federal support.

In summary, we urge the Senate Public Works Committee to aggressively pursue the strongest of user fee and cost-sharing proposals. These have been recommended by all the commissions, studies, and administrations I am aware of that have addressed the issue going back for years. We hope the Committee would reconsider its decision on the Simpson amendment or something like it. Major benefits to the environment will accrue to the nation if the economic efficiencies that would go hand in hand with these measures are brought about.

Statement of Jill Lancelot
Congressional Affairs Director
National Taxpayers Union

Mr. Chairman and members of the Committee, I represent the National Taxpayers Union, the largest nonprofit, nonpartisan public interest taxpayers organization, representing 120,000 members. We are dedicated to lowering taxes and reducing wasteful government spending.

I appreciate this opportunity to present our views on Titles V and X of S. 1739, the Water Resources Development Act of 1983. The National Taxpayers Union opposes S. 1739 in its present form. NTU strongly believes that taxpayers should not be expected to pay for projects which benefit narrow special interests. We believe that a comprehensive system of user fees to finance the building and maintenance of America's transportation network is in the best interest of taxpayers, consumers and the economy.

While the reimbursement policies in S. 1739 for hydroelectric, water supply, beach erosion, and flood control projects are improvements from current law, the cost recovery measures this bill establishes for inland navigation and port projects are grossly inadequate.

It is time to recognize that the country's national goals have changed substantially from the days when inland waterways served as the major link for freight movement between eastern population centers and the western frontiers. Now that networks of aviation, highways, railways, and waterways are extensively developed, the federal government's objective should be to treat all transportation systems equally to allow the market place to determine the most efficient mode.

These massive projects are best decided by the market place. Waterway subsidies are not needed when a completed project will show a net gain to society. For example, the vociferous debate over whether or not to build the Tennessee Tombigbee Waterway would probably not have occurred if the government

had allowed the waterway's supposed users to finance even part of this project. Passage of S. 1739 in its present form only assures the continuance of such debates.

Depiction of Title V's \$646 million yearly obligation of federal expenditures for inland navigation as a spending cap is very misleading. By guaranteeing any shortfall below \$646 million for use in future years, Section 502(b) mandates this spending level as the minimum contribution the federal government will make on an annual basis through fiscal year 1999. Instead of recovering more of the costs for inland navigation projects, the bill institutionalizes an egregious federal subsidy for inland navigation over other shipping modes. According to a December 1983 study by the Congressional Budget Office (CBO) entitled "Charging for Federal Services," in 1982 the federal subsidy for intercity freight transport on inland waterways was over 47 times that of the subsidy for trucks and almost seven times the subsidy received by the rail system. Fiscal year 1982 outlays for inland waterway expenditures were at the highest level in eight years. Yet, the proposed cap of \$646 million would decrease this level by only 8%.

To correct this inequity, we urge the Committee members to adopt the Simpson Amendment, which will reduce the federal share of inland navigation spending by \$35 million per year for 12 years. This reform would allow an ample period for the beneficiaries of inland navigation to adjust to higher reimbursement costs. After twelve years the federal government would still be expending some \$226 million in nonreimbursable funds. Inclusion of the Simpson Amendment in S. 1739 would assure creation of a partial user fee system if waterway users decide that spending levels must be sustained. While we sup-

port the Administration's original proposal of 100% cost recovery, we also view the Simpson Amendment as a first step toward that goal.

We recommend to the Committee the findings of the Report on User Charges just completed by the Grace Commission. It concludes that 100% recovery of the federal government's construction and operation and maintenance (O&M) costs on the inland waterway system is appropriate. It proposes that the recovery be phased in over a 5 year period to avoid sudden disruptions. Such a recovery would net \$600.7 million in the first three years and allow current fuel taxes to be phased out.

User fees impose a high degree of fiscal discipline regarding investment decisions in any project. We believe each segment of our inland waterway system should pay for itself. Systemwide user fees serve only to cross subsidize unneeded segments. However, segment specific user fees prevent the building of unneeded waterways.

The need in Title X for a coherent federal policy of site specific user fees for port development is also crucial. Two hundred deep draft ports are now subsidized by the Corps of Engineers. Clearly shippers would not support port projects which would result in fees higher than projected savings; projects resulting in a net loss would not be built.

However, S. 1739 forces taxpayers to pay all of O&M expenses for ports under 45 feet in depth and 50% of O&M expenses for ports over 45 feet in depth. With 84% of the Corps 1984 outlays for ports being spent on maintenance, it is clear that the taxpayer will continue to subsidize the ports. Instead of promoting equity or an effective selection of needed projects, this bill will continue the subsidization of port after port.

It is doubtful that a National Commission on Harbor Maintenance, as proposed in Section 1001.(a), and assisted by a panel of shippers as proposed in Section 1001.(d), will recommend a greater sharing of costs by nonfederal interests.

Users of the major ports, including those which might be deepened for coal exporting, can afford to pay for more than 50% of the O&M costs for these ports. According to the CBO, recovering all the federal government's deep draft expenditures from international shipping would increase shipping costs on the average by 30 cents per ton, or less than .2%. Another source concluded that if a much higher fee of a \$1.70 per ton was assessed on coal shippers, the resulting charge for a 125,000 deadweight ton vessel, fully loaded, would be only 3.4% of cargo value.

Benefit-to-cost ratios computed by the Corps of Engineers for deepening major coal ports have ranged from 2:1 to 9:1. With such alleged savings each port should be able to repay its own construction and O&M costs without help from other ports. Yet according to the CBO, only a few deepened ports would be necessary to satisfy future demand for U.S. coal exports. "If all 13 major U.S. coal ports handling more than 10 million tons a year were to expand their export capacity by deepening, capacity would exceed projected demand by about 2.5 times." To prevent such over capacity from occurring, user fees must be enacted; port users must realize they will pay for under-utilized ports.

The opening paragraph of the December 1983 CBO report aptly states the situation:

The federal government supports a variety of economic activities out of general revenues, providing facilities and services to specific groups without charge or substantially below cost. Though the Congress created such subsidies to pursue national objectives, many original goals have now been met, and federal priorities have shifted. When this is the case, continued subsidization distorts federal spending, encouraging inefficient use of resources, widening the budget deficit, and creating economic inequities. Increased reliance on reimbursement from the recipients of federal services could mitigate these problems.

For many years the NTU has advocated a cost recovery system that is equitable. We believe that all users of a service must pay their share.

We think that the Congress has a duty to implement this user fee principle. It is sound and responsive to the needs of the country.



Fred L. Smith, Jr.
Director of Government Affairs

Statement
of
Fred L. Smith, Jr.
Director of Government Affairs, Council for a Competitive Economy

Hearings on S. 1739
Water Resources Development Act of 1983

The United States Senate
Committee on Environment and Public Works

January 25, 1983

Mr. Chairman and members of the Committee, I am Fred L. Smith, Jr., Director of Government Affairs for the Council for a Competitive Economy. The Council is a national membership organization of businesses and individuals concerned with business policy. The Council advocates greater reliance on the market system and favors a reduced federal role in the provision and maintenance of ports and inland waterways. The current system of federal transportation subsidies is unfair and encourages major inefficiencies.

For those reasons, the Council opposes the current bill and suggests that it be revamped to require that all costs be borne by users. At minimum, the bill should introduce a phased-in system of charges that would over time ensure such a result. My testimony develops these points and suggests why so little progress has been made in advancing user charges despite their obvious intellectual appeal.

My background prepares me to comment on this matter. I am an economist and have worked on the user charge question for over a decade at the U.S. Environmental Protection Agency (pollution charges and fees), at the Association of American Railroads (largely highway user fees), and most recently at the Council. My work includes publications and presentations at the National Tax Association, the Transportation Research Forum, the Transportation Research Board, and meeting of the National Waterway Operators. I wrote the chapter on transportation policy that appeared in the Heritage Foundation's publication Agenda '83; and have testified on the highway user charge issue. Incidentally, several years ago, I organized a seminar on "Market Alternatives to Regulation and Subsidies" at which Senator Dominici discussed his work on waterway user charges. As many of you know, Senator Domenici provided the leadership that provided the one small victory ever

achieved in the waterway user charge area.

My testimony briefly surveys the case for user charges, critiques the current bill, and then discusses the political problems that continue to block progress in this area. As the headlines in today's paper indicate, the politics of special interest legislation are alive and well.

THE ADVANTAGES OF USER CHARGES:

A well-designed and implemented system of transportation user charges would prove far more equitable and efficient than the current system of general tax financing. Evidence to that effect has been presented in prior hearings and similar findings are likely to be repeated during the course of these hearings. User charges may be viewed as "public prices," that is, fees charged for goods or services provided by government. As such, they bring to the public sector some of the benefits derived automatically in the marketplace. User charges not only encourage efficiency, they also reduce the clamor of special interests for expanded federal programs and increase the likelihood that users will take over the management and financing of such services rather than relying on government.

The basic facts of this issue have not changed since the time of Adam Smith. Smith recognized the value of canals and ports along with other "infrastructure" improvements but noted:

"It does not seem necessary that the expence of those public works should be defrayed from the public revenue..."

Smith went on to note:

"...a navigable canal, for example, may in most cases be both made and maintained by a small toll upon the carriages which make use of them; a harbour, by a moderate port-duty ..."

Smith believed the basic rationale for such user-financing was its fairness:

"When the ... lighters which sail upon a navigable canal, pay toll ... It seems scarce possible to invent a more equitable way of maintaining such works."

User charges ensure that the carriers initially -- and the consumers of the transported products ultimately -- bear the costs rather than the general taxpayer.

Smith noted that a user charge financed system was far more likely to yield social returns:

"When ...canals, etc. are [financed by user charges], they can be made only where that commerce requires them ..."

Smith suggested that if general revenues are used to finance canals or ports that they may sometimes be built for reasons that have nothing to do with their value.

My own childhood in rural Louisiana provides evidence for Smith's assertion. Shortly after World War II, the Corps of Engineers constructed, apparently at the bequest of the powerful legislative representatives of that state, a canal system linking Bogalusa to the intracoastal canal system. That system required three locks and my father became lockmaster of Lock #1 some 50 miles north of New Orleans. The Pearl River system was opened with great enthusiasm with the shipment of one bargeload of products from Bogalusa. To my knowledge, that shipment was the last item of commerce every to transit the whole system. Over the years sand and gravel occasionally were barged down the system; but even these were infrequent. My brothers and I had to help my father open and shut the gates to keep the gears from locking up. As Adam Smith noted, when politics determines how money is spent, it sometimes gets wasted. My childhood was pleasant, but I do not think the private benefits I derived offset the costs borne by the American taxpayer.

In addition to the equity and efficiency benefits, user charges increase the likelihood that public sector managers will provide higher quality more consistent services (their budgets depend upon pleasing their customers much as in the market) and reduce the political turmoil associated with the public works process (lobbyists are less likely to encourage low value projects if they have to pick up the tab -- in fact, user groups may lobby against such projects). In the waterway area, this factor is likely to prove important since the user groups -- the barge and shipping company officials are concentrated and thus likely to be extremely effective in blocking wasteful programs.

A Cautionary Note: A brief note is in order about the likelihood that user charges will ever play the "public pricing" role. Pricing a product or service is extremely difficult and is even more difficult in a political environment. The federal government has never varied fees to reflect geographic variations in costs or benefits; thus one cannot be optimistic about the ability of government to achieve efficient pricing policies in the waterway area. Cross-subsidies, crude average cost pricing and an excessive degree of uniformity seem inevitable in any federally managed user charge system. Decentralized management of the waterway system is required for user charges to approximate the "pricing" ideal.

This suggests that we require separate cost and revenue accounting for each segment of the navigational system -- canals, locks, ports. Such cost center accounting would indicate which parts of the system are self supporting and thus might be spun off to local or private user-group control. It is likely that many of the U.S. ports and large segments of the inland waterway system are self-sustaining. The residual portions would continue to be financed out of general revenues, but the subsidy required would become more visible. This greater visibility would likely increase the scrutiny that such projects would receive and make it more likely that projects serving no public purpose would be abandoned.

The user charge strategy is not incompatible with this institutional change approach. Waterway users are a relatively small and sophisticated group. If Congress were to require users to pay a substantial portion of the costs of inland and harbour costs, the users would themselves be swiftly aware of who

was paying more than "their fair share." Barge operators on the lower Mississippi would recognize that their payments were subsidizing traffic on say the Pearl. As a result, the users themselves might request that charges be levied on a segment and port specific basis with each facility covering its own cost ("each tub on its own bottom"). These shifts would be beneficial and would reinforce the objectives of the original legislation. Thus, even crude user charges would be expected to improve over time.

User charges also act as a "half-way" house in moving a government activity into the private sector or to some non-federal level of government. They allow one to test whether a specific facility is likely to be self-sustaining and thus reduce the risks of such shifts. Moreover, user involvement in the process might well lead them to requests that they be allowed to take over or directly contract out for the management of the facilities. There is considerable evidence that government is less efficient than the private sector, and this fact might lead user groups to favor privatization -- once they had to pay the costs of such inefficiencies. Privatization thus becomes an eventual goal of user charge financing.

STATUS OF WATERWAY USER CHARGE INITIATIVES:

As noted the case for user charge financing is not new. Yet, the only progress that has ever been made in this area was achieved under the leadership of Senator Domenici that led to the Inland Waterway Revenue Act of 1978 (P.L. 95-502). That limited success now requires the waterway users to pay a tithe of the overall costs of maintaining and constructing the waterway system (the user fee is simply a fuel tax which under current schedules will reach 10 cents per gallon in October of 1985; at that time, the tax will raise perhaps \$60 million or less than 10 percent of the expenditures on the waterway system). There has been little progress since that date.

The Administration early in its tenure proposed higher reliance on user charges. In the initial discussions of this topic, users were to pay all the costs of maintaining and expanding the system. In his September 24, 1981 economic address, the President stated:

"When the federal government provides a service directly to a particular industry or to a group of citizens, I believe that those who receive the benefits should bear the cost."

That initial view was reinforced in early testimony and requests from the agencies to move toward user financing. OMB Circular A-25 had long provided policy guidance for such steps and it appeared that the policy would be interpreted more strictly as part of Reagan's overall program of cost reduction.

Since that date, the Administration has gradually retreated. One hundred percent cost recovery has become 70 percent, and support for even that position has been reduced. The current bill fails to adopt any further user charge initiative. The inland waterway portion of the bill merely "caps" inland waterway spending at \$646 million annually. The fuel tax now designated a "user fee" contributes a small amount of this sum and the rest is provided from general tax revenues. No case has been made for any taxpayer subsidy and

the Congress should move to require full user financing. The Simpson proposal narrowly defeated by this Committee earlier would move in this direction and deserves reconsideration. Similar policies should be adopted for harbour and port financing.

THE POLITICAL PROBLEM:

The problem faced by Congress in this area has nothing to do with knowledge, and much to do with the lack of effective political leadership. We have known how to impose user charges since the time of Adam Smith -- we have yet to do it in any significant way. This Administration is long on people wearing Adam Smith ties, but very short on those willing to fight for Adam Smith's policies.

Nonetheless, a renewed political effort in the user charge area seems timely for a number of reasons:

- * The Administration continues to be concerned with the question of cost cutting. User charges offer one of the few ideas offering promise in this area.
- * An important constituency of taxpayer groups, environmentalists, adversely affected competitive businesses, media, good government types and individuals within the Administration have long supported such initiatives. Given leadership, this coalition could be extremely helpful in enacting significant user charge legislation.
- * OMB policies continue to provide a sound basis for further action in the area. Current policies already require user charges to be levied.
- * The President's leverage in this area remains significant in that he has indicated a willingness to veto any measures not incorporating an adequate user charge scheme. Such a veto would probably be sustained.

and finally,

- * The recent release of the Grace Commission's report endorsing user charges as an important step in improving government efficiency and reducing waste. J. Peter Grace has provided a major commitment to reducing waste in government; he might be willing to help implement the results of his Commission.

This last point deserves further consideration. The report of this commission, The President's Private Sector Survey on Cost Control, represents a major contribution by the private sector to a more efficient society. J. Peter Grace, the businessman who headed the project, spent immense time and energy in managing and forcing into a coherent form the work of a large number of largely voluntary efforts by executives from a number of American firms. The result was a compendium of some 45 reports including one on User Charges.

In its User Charge Report, the Commission noted the inequities resulting from private or user charge financing of other transportation systems, while providing 97 percent of the funds for inland and coastal waterways out of

general tax revenue. The report viewed user charges as an important way of enhancing efficiency and reducing the need for tax revenues, and identified user charges as providing perhaps some \$10 billion over three years. What is likely to be the result of these recommendations?

Probably not much. The Grace Commission has received polite audiences from the White House; been applauded for its efforts; but the Administration has yet to make any effort to translate these analytic results into political realities. Reports do little in themselves to build political support for new ideas and without such political support, Congress is unlikely to challenge the established political groups. Thus, the work of the Grace Commission is all too likely to disappear into history, unless someone organizes a political effort to implement its findings. Ideas matter, but only if they are brought into the political debate. And for that to happen in any meaningful way; someone in industry, in the Administration or perhaps in the Grace Commission will have to organize the political constituency for change.

CONCLUSION:

These hearings represent one in a series of hearings that have discussed the value of user charge financing. Little much has ever come of these recommendations, and nothing much is likely to occur as a result of today's discussion. User charges have great potential, but will not achieve that potential unless they are championed. Unless someone in the future shows the political leadership that Senator Domenici did in the past, waterway user charges and the benefits they might provide will remain a dream not reality.

STATEMENT OF
STEPHEN A. VAN DYCK
PRESIDENT
SONAT MARINE INC.
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
January 25, 1984

Good morning Mr. Chairman and members of the Committee. My name is Stephen A. Van Dyck. I am President of Sonat Marine Inc., which is the nation's largest independent U.S.-flag carrier of petroleum products. I am accompanied today by Peter J. Luciano, Executive Director of the Transportation Institute.

My remarks today are presented in behalf of both Sonat Marine and the Transportation Institute. Sonat Marine is a member of the Transportation Institute and I serve as Chairman of the Institute's Towing and Dredging Council. The Transportation Institute is a nonprofit research and educational organization dedicated to the promotion of the American-flag merchant marine. The 174 member companies of the Institute encompass virtually every sector of the U.S.-flag maritime industry, including operators of oceangoing vessels in the nation's foreign trade, coastal and noncontiguous tankers, liners, tugs, and barges

engaged in domestic trade, Great Lakes dry bulk vessels and tug-boats, and inland river towboats. The concerns and suggestions included in my statement reflect the consensus opinion of these many and diverse marine operators calling on America's ports.

Both Sonat Marine and the Transportation Institute are pleased to have this opportunity to provide you with our thoughts regarding Title X of S. 1739. As you are well aware, the subject of port cost recovery is of critical importance to the U.S.-flag merchant marine.

On June 21, 1983, I had the opportunity to present testimony before the Water Resources Subcommittee on port financing legislation then under consideration, specifically S. 865 and S. 970. I would like to briefly summarize the major points made in that statement as a reference in comparison to the provisions of Title X of S. 1739:

- The cost of operating and maintaining existing channels and harbors should be funded through the use of Customs receipts.
- The true beneficiaries of port and channel deepening should be identified, and should fund those projects from which they benefit if cost recovery legislation is enacted.

- The imposition of port development user fees on vessel operators who derive no benefit from either port deepening or the maintenance of existing port depths is both unfair and injurious.
- Port user fees levied on the American-flag fleet would lead to the further demise of that fleet, create severe negative financial and administrative burdens on vessel operators, and directly conflict with longstanding maritime promotional policies.

Mr. Chairman, we are pleased to see that the sponsors of S. 1739 have given some consideration to these and other concerns contained in my previous statement in their crafting of Title X. I am encouraged by their attempts to formulate a port financing policy which takes into account some of the operational and administrative realities of U.S.-flag carriers. However, we are concerned that S. 1739 was reported by the Committee without the benefit of public hearings on its provisions. We trust that the Committee will give serious consideration to our concerns with this legislation before moving forward toward its enactment.

At the outset, I should tell you that we have grave reservations with the conceptual approach that this legislation takes toward the port development issue, and find some of its

specific provisions to be particularly disturbing. In an attempt to provide the Committee with the specificity it has requested, my remarks on the bill's provisions will be divided into two essential categories -- operation and maintenance financing and channel deepening financing. In addition, at the end of my statement I will address the question on incentives to construct super ports which you requested witnesses to consider.

I am also concerned that the debate on port development financing has been preoccupied with mechanisms of cost recovery and politically acceptable revenue sources. Unfortunately, the debate has all but ignored the more concrete and difficult issues of how these projects are actually going to be financed, and what happens to all the good intentions when cargoes are diverted between the ports, traffic drops off in a port because of cyclic declines or diversion, and the debt service cannot be met from the originally projected users. I will later devote a separate section of my statement to address these concerns in greater detail.

OPERATION AND MAINTENANCE FINANCING

Consistent with my June statement, Sonat Marine and the Transportation Institute believe that the cost of existing channel operation and maintenance should be funded through the

use of Customs receipts. The monies necessary to fund annual port O&M would be only a very small portion of the Customs receipts generated by the flow of commerce through the nation's ports. The American Association of Port Authorities calculates that roughly \$5.5 billion in Customs receipts was collected last year from import cargoes arriving by ship at U.S. ports. Using the yardstick which the Congress and the U.S. Army Corps of Engineers now utilize to evaluate proposed water resource development projects, we find that the annual expenditure of \$350 million for port O&M results in a cost-benefit ratio of nearly 16 to 1. We believe that a return on investment of this magnitude presents a compelling case for the funding of port O&M through the use of Customs receipts.

Moreover, there is no question that ports are an essential component of the nation's security and provide the conduit for most of our foreign trade, including the import of petroleum and the export of our vast resources such as coal and grain. It is therefore in the national interest to keep our ports operating efficiently and well maintained.

I was pleased to read in the report accompanying S. 1739 that this Committee also believes that "retention of strong Federal support for general cargo harbors remains justified." However, I find a contradiction between that premise and section 1001 of S. 1739.

Section 1001 establishes the National Commission on Harbor Maintenance to examine the issue of harbor O&M financing, instructing the Commission to report to the Congress on the "annual and long-term costs of maintaining the Nation's harbors, and make such recommendations as it finds appropriate for the sharing of these costs by non-Federal interests, and the means by which to recover such non-Federal share." This mandate to the Commission presupposes, in contradiction to opinion expressed in the Committee report, that user fees are the answer to the harbor O&M funding question. We believe that such a presupposition is inconsistent with the belief that the critical importance of the nation's harbors warrants continued and strong federal support.

Mr. Chairman, we believe that in order for the Congress to receive an objective and comprehensive recommendation, it is very important that the National Commission on Harbor Maintenance examines all the many alternatives for O&M financing. As S. 1739 is now worded, the Commission is to report on cost sharing as the means to finance harbor maintenance. We would propose instead that section 1001 be amended to require the Commission to examine and report on all practical methods of financing, including Customs receipts, the existing funding mechanism, and user fees. The first question before the

Commission should not be at what level cost recovery should be established, but rather whether there should be cost recovery at all.

Additionally, despite our belief that user fees for harbor O&M are unwarranted, as the Committee has requested, I will offer some other specific suggested changes to the O&M financing provisions of Title X. First, we applaud the establishment of a Shipping Advisory Board to assist the National Commission on Harbor Maintenance in its work. The underlying purpose of any industry advisory group is to bring together experts from the most affected industries to comment on the feasibility and practicality of a specific proposal or issue. We appreciate the Committee's efforts in this regard to assure that the industries which will be affected by cost recovery are consulted.

We would propose, however, that the Board be permitted to report its recommendations directly to the Congress in addition to assisting the Commission. It is extremely important to insure that the concerns and suggestions of those most affected are given full consideration by the policymakers ultimately responsible for enacting legislation which addresses this issue.

Our second suggestion also involves the Shipping Advisory Board. We would propose that the legislation be more specific as to the composition of the Board, in order to insure that

every major industry sector directly affected by cost recovery is given the opportunity to participate in the Board's advisory work. To that end, we suggest amending section 1001(d) to provide for the following representation on the 11-member Shipping Advisory Board:

- Four representatives from U.S. ports -- one from each of the four coasts, two being from small ports and two from large ports.
- Four representatives from American-flag carriers -- one bulk carrier in foreign commerce, one bulk carrier in domestic commerce, one general cargo carrier in foreign commerce, and one general cargo carrier in domestic commerce.
- Three representatives from U.S. shippers -- two bulk shippers and one general cargo shipper.

The third and final concern we offer on section 1001 relates to the \$350 million annual cap imposed on federal harbor maintenance funding until the Congress acts on the recommendations of the Commission. While it may be true that this sum will be sufficient to properly maintain the nation's deep-draft channels for the next two years, it will probably not be adequate beyond

that time. Consequently, imposition of an inflexible \$350 million cap on federal harbor O&M funding makes it likely that innocent parties, i.e., ports, carriers, and shippers, would be penalized should Congress fail to act on the recommendations of the Commission. Inasmuch as it is the responsibility of the Congress to establish harbor funding policy, it would be a grievous injustice were this to be allowed to occur. We propose indexing the \$350 million cap to inflation in order to protect ports, carriers, and shippers should Congress elect not to enact a revised financing policy within two years. This mechanism would insure that American ports will continue to be adequately maintained consistent with the needs of our domestic and foreign commerce.

FINANCING OF CHANNEL DEEPENING

Our comments with respect to the provisions of S. 1739 which address financing channel deepening will concentrate primarily on general cargo harbors of 45 feet or less. First, however, we would like to offer one observation regarding the funding of deep-draft harbors in excess of 45 feet. Even though neither Sonat Marine nor any of the Institute's 174 member companies would benefit from or utilize harbor depths greater than 45 feet, it is our opinion that 100 percent cost recovery for such channel deepening is excessive. Given the substantial economic, social, and national security benefits provided by coastal

ports, we believe that the federal government should participate to some extent in the financing of super deep ports if it is determined that such channels are necessary for the efficient movement of our imports and exports.

One of the elusive components of an equitable port deepening cost recovery policy is the identification of the direct beneficiaries who should share the costs. My statement of last summer noted that if water carriers are to be considered beneficiaries of channel deepening, a stronger case can be made that several other parties along the chain of producing, manufacturing, storing, and transporting a cargo destined to move in waterborne commerce are likely to benefit even more directly from port improvements. Indeed, it appears to us that both the producer and purchaser of goods moving in waterborne commerce are direct beneficiaries of port improvements. Also, it is difficult to overlook shoreside terminals and land-based transportation systems, such as railroads, which directly benefit from port deepening by transporting vast amounts of agricultural and energy products from inland origins to tidewater and Great Lakes ports. Consequently, we believe that if the movement toward lesser federal involvement in port financing is truly predicated on the basis of charging beneficiaries an equitable fee for benefits derived, it is then incumbent that the Congress fairly and accurately identify the actual beneficiaries of port deepening projects.

Mr. Chairman, it is on this point where we believe Title X, particularly section 1006, of S. 1739 falls short. While we appreciate the Committee's recognition that direct beneficiaries should pay for the preponderance of user fees collected, namely 80 percent, we are very concerned with the latitude provided local ports to define the phrase "users that benefit directly." We believe that inasmuch as it is Congressional responsibility to formulate a financing policy for port deepening, the Congress must also address the important corollary of identifying the direct beneficiaries. The direct beneficiary component of port financing policy is the one perhaps most vulnerable to abuse by local ports, and we therefore suggest that specific language and guidelines be included in section 1006 defining those who benefit directly and who should consequently bear cost sharing responsibility. We would be glad to work with the Committee in that effort.

We have one final thought regarding the issue of direct beneficiaries. We propose that once the direct beneficiaries of a deepening project are accurately identified, they should be required to pay 100 percent of the total user fees collected, as opposed to the 80 percent recovery contemplated by S. 1739. We find no compelling rationale for collecting any user fees for port improvements from parties which do not benefit from those improvements.

Two other very troublesome aspects of section 1006 are the latitude granted to local ports to recover the financial obligations they incur under S. 1739, and the presupposition that user fees will be levied on vessels. Language contained in the report accompanying S. 1739 bears out these concerns:

Section 1006 authorizes the non-Federal interest ... to recover its obligations for construction work, including associated administrative expenses, by the imposition and collection of fees for the use of such projects by vessels in commercial waterway transportation. The precise nature of such fees, the fee structure and schedule, and the frequency such fees should be collected is left to the discretion of the appropriate non-Federal interest. (emphasis added)

We are, of course, distressed at the presupposition that local port user fees should be collected from vessels. Given our preceding arguments regarding the direct beneficiaries of port deepening, we consider it both simplistic and unfair for the vessel to be singled out as the mechanism on which user fees are imposed. We urge this Committee to remove all presumptions from the legislation and its report that user fees are to be imposed on vessel operators.

Perhaps more onerous is the potential nightmare facing the carrier industry if each U.S. port is given the latitude to establish the type, amount, and number of fees it sees fit to impose on practically anyone it chooses. In this regard,

S. 1739 proposes to defer to local ports the resolution of an issue which has been so difficult, sensitive, and controversial that the Congress itself has not been able to come to grips with it. We believe that deferring this matter to local ports is taking a bad problem and making it worse. We urge this Committee and the Congress to assume the responsibility which appropriately belongs here to address specific user fee mechanisms. To do otherwise is tantamount to transferring congressional policymaking responsibility to local entities which will be guided by technical and commercial considerations. Imagine the response of the American public were the tax committees of the Congress to take like action and instruct the Internal Revenue Service to lessen the Federal deficit through the imposition of whatever new taxes it chose to establish.

On the practical side, the burden on vessel operators will be overwhelming if the Congress does not itself address this issue. I can already see that Sonat Marine alone would have to hire a bevy of lawyers to do nothing but fly up and down the East and Gulf Coasts arguing at least 24 different times at the 24 major ports we serve as to who are the direct beneficiaries of port deepening, who should pay how much, how fee schedules should be structured, etc. One only needs to multiply our activity by the hundreds of U.S. carriers serving American ports

to understand the serious economic ramifications of the proposal in S. 1739 to allow local ports to establish individual user fees.

In addition to the unwarranted necessity of defending our interests at a score of U.S. ports, the U.S. carrier industry would suffer severe administrative burdens if each port levied its own type and number of user fees. The bookkeeping quagmire alone under that scenario would be overwhelming. Beyond that, S. 1739, in its current form, would make it virtually impossible for water carriers to negotiate long-term contracts or to engage in meaningful business planning, as any number of ports may levy new user fees or change their existing fee structure virtually at will.

We are also concerned that some fees which ports may choose to levy might be prohibitively expensive or unworkable, particularly with respect to petroleum. Using Sonat Marine as an example, we accomplished over 9,500 separate cargo loadings and discharges in 1982. One of our typical Gulf Coast movements may involve the loading of cargo at Corpus Christi, Texas, with final discharge taking place at Port Everglades or Jacksonville, Florida. However, along the way, that vessel may also stop at Beaumont, Texas, Lake Charles, Louisiana, New Orleans, and Tampa, either loading additional cargo or discharging cargo at

each port. Given this typical complexity of petroleum transportation, perhaps the same product may be subject to user fees over half a dozen times. Even if there would be a provision prohibiting multiple user fees on the same product, we see no workable way for fees to be properly assessed on a liquid bulk cargo. Moreover, given the fact that almost 85 percent of all domestic coastal commerce is crude petroleum and petroleum products, the administrative difficulties of disparate user fees will not be unique to Sonat Marine.

Mr. Chairman, recognizing the serious and likely problems involving administration, fairness, cost, and undue burden on the carrier industry which S. 1739 would engender, we strongly urge that section 1006 be amended to clearly define those "users that benefit directly", remove all language which presumes that vessel operators should be the parties charged with user fees, and eliminate the broad authority for local ports to establish individual user fee mechanisms.

THE PRACTICAL CONSIDERATIONS OF LOCAL FINANCING

Mr. Chairman, the proponents of transferring the cost of harbor improvements to local port authorities have blindly assumed that such projects can be financed through the usual financing vehicles. While most port authorities finance major port projects by issuing bonds, channel improvement projects

raise novel and potentially insoluble financing obstacles. Typically, ports issue bonds for physical projects, like storage facilities, against which the bond holders can perfect security interests in tangible or real property. Financing of port projects are frequently facilitated where the credit of commercial users, through use agreements, is pledged. Bond financings are most easily financed where the government authority has a "monopoly" to assure use of the facility being financed and to assure a guaranteed revenue stream, such as is the case with sewers and limited access highways.

We believe the financing of channel improvement projects will be vastly different. First, channel deepening produces no tangible assets which could be used as security for bondholders. Secondly, no "monopoly" exists in port usage, making it difficult to assure an adequate revenue stream. Moreover, there is no history of assessing channel improvement user fees upon which bond rating agencies and potential bondholders could rely to assess the risk. These problems are compounded by the vigorous competition among ports, both those on the same coast and those accessible through intermodal movements, for cargo. Cargo liftings and loadings are very sensitive to incremental costs, such as those represented by user fees, as evidenced by recent increased tolls on the St. Lawrence Seaway which have had the effect of reducing seaway traffic by over 25 percent in the

five-year period since tolls began to rise. Because cargo diversion is common, steady revenue streams will not be assured in many ports. All these elements raise doubts about the ability of ports to finance deepening projects through traditional financing arrangements.

Assuming deepening projects can be financed, Transportation Institute member companies are particularly troubled by the prospect of being subject to escalating port fees during downward cycles in the economy or during periods of cargo diversion. The problem is not unlike that of unfunded pension liability. In declining markets and with escalating business failures, the remaining companies are distressed to find their liability growing without control. We are particularly concerned that today's assurances that only "direct beneficiaries" will be assessed fees to finance projects, will give way in the future to escalating fees on a shrinking base of carriers to meet the imperatives of debt service. We are deeply disturbed by an apparent lack of appreciation for the very real and serious consequences of trying to finance harbor projects at the local level. In theory, a politically feasible formula might be devised to spread the cost of channel improvement financing among different groups. In reality, the government would be creating a financing need that will be satisfied ultimately in a regressive and counter cyclic manner.

Nor are we sanguine about the prospect of government guaranteed debt. Like so many other government guarantee programs, financing may be facilitated in the short run. What government guarantees do, however, is introduce distortions in the normal market allocation of capital. In direct contradiction to the central tenet of most user fee regimes, promoters will be able to secure financing for projects that could not otherwise meet the market tests. Why are we worried, especially with the debt guaranteed? Because, like all financial failures -- which are more likely when you artificially generate project financings -- the government would be a creditor which needs to protect its position. How? By working with the troubled project to restructure debt schedules and probably find new sources of revenue. Again, the Institute's member companies see themselves as inevitably becoming the likely targets for raising revenue. We are very concerned that once the federal government abandon's its public works responsibilities, carriers will become the source which will be tapped when projected port revenues fail to keep pace with debt service.

ADDITIONAL CONSIDERATIONS

Mr. Chairman, my preceding comments have already answered some of the questions which you posed to potential witnesses in a news release dated last November. There remains, however, one

question which I have not yet addressed but which I would like to consider now.

Specifically, the Committee asks what incentive there is to construct super port projects absent section 1004 of S. 1739. In a nutshell, we believe that there is very little, if any, incentive to develop super deep ports at this time, with or without a government policy such as that contained in section 1004.

As you are well aware, Mr. Chairman, the sole impetus over the last three years to construct super ports has been as a means to capture a greater U.S. share of the world's coal markets. The underlying rationale is that deeper ports will allow for the use of large deep-draft colliers, which achieve greater economies of scale than do the smaller coal colliers which must now call on U.S. ports. Unfortunately, though, the very promising coal export predictions made in the late 1970s and 1980 and 1981 have never come to fruition.

However, we do not believe that the lack of super deep ports is the reason for the static market share for U.S. coal. Rather, it is the unreasonable pricing policies of U.S. railroads. One need only listen to our European allies for ample evidence that the most serious obstacle to the steady future

use of American coal is the U.S. railroads. European buyers of American coal view the recent ICC decision to deregulate railroad rates for export coal as a license to steal aimed directly at the European market. They speak bitterly of the refusal of American railroads to adopt reasonable pricing policies, and of the frustration they feel in attempting to negotiate with railroads which have captive shippers and complete market dominance. Moreover, the Europeans feel that the U.S. government is insensitive to this problem, and that the cozy relationship between the railroads and the ICC will eventually force European buyers to withdraw from the American market entirely. As an example of this eventuality, Denmark has announced that while only two years ago it had purchased over three and one half million tons of U.S. coal, next year it will buy only 700,000 tons. Even countries like Italy, which has been a long-term buyer of American coal, are vowing to no longer subsidize American railroads.

With respect to the use of super deep coal colliers, many European purchasers feel that there is no immediate need for port deepening in the U.S. insofar as the European market is concerned, and believe that the U.S. should now concentrate on topping off as the most effective means to facilitate coal exports. The American-flag maritime industry wholeheartedly endorses that latter point. As a matter of fact, Sonat Marine

has spent over one million dollars trying to develop a coal topping off system in the lower Delaware Bay to take advantage of the existing 55-foot natural draft. We have written off our investment in that project because we found that we were unable to complete the project even though it was economically viable. It was the refusal of the railroads to cooperate with us in the loading of these colliers that forced us to abandon the effort.

Mr. Chairman, we do not believe that there is now much incentive to construct super ports. If the U.S. government is committed to increasing U.S. coal exports, it should encourage those exports through the development of topping off operations and by putting an end to the pricing abuses of American railroads. Channel deepening is not now the answer.

CONCLUSION

The committee report accompanying S. 1739 states, "If this nation is to continue its preeminent role in world commerce, a clear Federal policy for the construction and maintenance of harbors is essential." We agree completely, and would urge that because ports are so essential for foreign and domestic trade, national defense, and economic stability, the federal government should continue to fund channel construction and maintenance in the national interest.

There has been a dangerous tendency to view port development as a parochial matter limited in scope to ports and water carriers. However, we believe that there are serious policy questions and national ramifications which the Congress must address before enacting port user fee legislation. We believe that the inevitable effects of port user fees are seriously at odds with several longstanding federal policies which seek to promote and support basic American industries and provide stability in their marketplaces. Several salient examples come to mind which we believe deserve the Committee's full examination.

First, as I pointed out in my earlier statement to the Subcommittee, port user fees have the potential to completely undermine the goals which U.S. maritime policy seeks to accomplish. The maritime statutes of the United States, prompted by national defense and economic considerations, remain vitally important today, and must not be diluted through the enactment of fiscal legislation which seeks to address an oppressive federal deficit.

Secondly, we believe that port user fees are wholly inconsistent with the longstanding national policy of competitive equity among the transportation modes. The preamble to the Interstate Commerce Act states in part that it is the policy of the United States to:

...recognize and preserve the inherent advantage of each mode of transportation;...encourage sound economic conditions in transportation, including sound economic conditions among carriers;...[and] encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices.

The imposition of user fees on U.S.-flag vessel operators will serve to undermine the competitive balance between the modes which the Interstate Commerce Act seeks to assure, particularly with respect to coastal movements of petroleum and coal.

Coastal tankers and tankbarges, on the one hand, must compete with pipelines, while coal colliers and barges, on the other, compete with the railroads. The competitive relationship between marine transportation and the land-based modes in these instances is a vigorous one, and the threat of cargo diversion away from coastwise navigation is very real. We are very concerned that new costs, in the form of user fees imposed on vessel operators by Congress, will divert substantial cargoes to pipelines and railroads which would ordinarily move by water.

Moreover, to further skew the competitive balance between water carriers and railroads, user fees on the navigation industry are under consideration at the same time that the railroads continue to receive large federal subsidies. This Committee must consider the equity and effect of charging vessels for the use of federally-maintained ports while subsidies and tax breaks in the order of hundreds of millions of dollars

annually are given to the railroads. For example, in fiscal year 1983, Congress appropriated \$440 million of federal funds into the Railroad Retirement Fund, while an additional \$2.1 billion was authorized to be deposited into the Fund to make up for past funding deficiencies. Additionally, direct federal subsidy is not the only benefit recently received by U.S. railroads. According to the U.S. Department of Transportation citing Treasury Department figures, American railroads were given \$309 million in tax breaks in fiscal year 1982 under the Economic Recovery Tax Act of 1982. We believe the increased taxation of marine transportation concurrent with substantial largess to railroads must be examined in the context of the competitive equity objectives of the Interstate Commerce Act.

Third, the Federal government spends billions of dollars annually to encourage the export of American agricultural products and to provide subsidies to farmers in order to allow their crops to be sold at competitive prices on the world market. It has been reported that in fiscal year 1982 alone, farm support programs cost \$28 billion. Of that total, nearly \$19 billion was in the form of direct payments and crop loans to farmers. Indeed, serious consideration must be given to the effect that user fees may have on defeating the purpose of our vast agricultural subsidy programs.

Lastly, the Committee should consider the effect of a navigation cost recovery program on the nation's industries as a whole. There is a growing consensus that one of the top items on the national agenda is the establishment of a comprehensive industrial policy. Both political parties are already vigorously working to develop such a policy for subsequent inclusion in their 1984 political platforms. We believe there is little consistency between the adoption of a policy which seeks to promote the nation's basic industries and the imposition of regressive fees on one of the major service industries to those sectors of the economy.

Mr. Chairman, before concluding my remarks, I would like to offer the Committee one more admonition regarding navigation user fees. S. 1739, as many of the other port development bills introduced in both this and the 97th Congress, is predicated on the assumption that vessel operators have the ability to pass on their user fees to the shippers they serve. While it is true in theory that most costs incurred by a service industry can be passed through to the customer, it is also true that the weakest link in the transportation chain is generally forced to absorb newly imposed or increased costs.

Unfortunately, the independent operators of U.S.-flag vessels are that weak link in our national transportation chain.

There now exists, and will continue in the long term to be, a severe overtonnaging problem in the domestic marine transportation industry. Today, many independent vessel operators are offering at or below-cost rates just to keep their equipment operating. The flexibility simply does not now exist in either the spot market or in long-term charters to pass on substantial portions of new user fees to our customers without losing cargo to waterborne competitors or other transport modes. Unfortunately, I can relate to the Committee first hand Sonat Marine's recent and continuing experience in unsuccessfully attempting to pass on new and unexpected increases in our pilot fees. Sonat Marine has been obliged to absorb over 50 percent of these pilotage fees because we would have lost customers had we insisted on fully reflecting the increased cost in our rates. In short, the coastal waterborne transportation industry engaged in for-hire carriage cannot now pass fully through the user fees envisioned in S. 1739, nor will we be able to do so in the foreseeable future. This is a fact which we urge the Committee not to overlook.

Mr. Chairman, in summary, allow me to review the essential points which comprise our position on and concerns with the specific provisions of Title X of S. 1739:

- The charter of the National Commission on Harbor Maintenance should be to examine and report on all practical methods of financing channel maintenance.
- The Shipping Advisory Board should be permitted to report its recommendations directly to the Congress.
- The composition of the Board should be more strictly defined in the legislation consistent with a fair and well-balanced representation by U.S. ports, American-flag carriers, and U.S. shippers.
- The \$350 million limit on federal funding of harbor maintenance should be indexed to inflation.
- Specific language and guidelines should be included in section 1006 defining the phrase "users that benefit directly."
- The direct beneficiaries of channel deepening should pay all user fees collected for port improvements.

- All presumptions in S. 1739 and its accompanying report that local port user fees, if levied, will be imposed on vessel operators should be removed.
- Congress should assume the responsibility to address specific user fee mechanisms for channel deepening, and eliminate the broad latitude given to local ports in this regard.

Thank you for this opportunity to present our thoughts on the question of port development and maintenance funding, the resolution of which will have a substantial impact on the future health of the U.S.-flag merchant marine. I will be glad to answer any questions that you may have.

STATEMENT

by

Melvin Shore, Port Director

Port of Sacramento

Thank you, Mr. Chairman and members of the Subcommittee for this opportunity to present testimony relative to S 1739, Title 10. I want to take this opportunity to commend you, Mr. Chairman, for your dedicated effort to break the "log-jam" that the dredging of our ports in this country has faced for these past seven years. The funding mechanism has been debated in numerous forums each seeming to lead to a deadlocked situation. The need to move ahead is obvious to all. The need to move NOW seems extremely urgent to many of us in the port industry.

PORTS - A JOINT VENTURE

A good working definition of a joint venture is a development in which both parties have a financial interest and both parties reap a financial benefit. I believe the development of the ports of this country over the last 200 years has truly been a joint venture between the federal government and the local interests. If we examine the port development picture, we see that it indeed fits that description - making it a joint venture of federal and local interests. Despite impressions that may exist, there is considerable local money in our port system as it exists today. That money is not only in the form of local cooperations but also in the development of cargo handling equipment and facilities. The existing Port of Sacramento will serve as an example. The federal government spent a little over \$40

million to construct the channel, harbor, barge canal and lock. For insurance purposes, at replacement cost, our cargo handling facilities are valued at \$35 million. To accomplish this, we have sold bonds for just over \$41 million plus added our income whenever possible. There are those who would argue that the investment by ports in facilities and equipment is not germane to the situation. On the contrary, of what value is a channel or harbor without these facilities? They are all part of the port system of this country required to move its cargoes.

On the benefit side of the ledger, there are those that imply that the benefits all accrue to the local area. How do they account for the fact that the federal government takes in over \$6 billion per year in customs revenues at our maritime ports? How could that income that goes into the general fund be generated without the local share of the system? What is the effect upon the balance of payments and in turn on the entire United States economy by the exporting of commodities through our ports? How many ports are actively involved in promoting exports to help right our balance of payment? We have only to look at how many ports have received the Presidential "E" Award to get some idea of the contributions made by our ports toward fostering exports.

I believe the above proves rather conclusively, that ports do not come to the Congress with hat in hand for another handout. On the contrary, it is in the sense that the federal government needs to recognize the significant benefits to its income and economy by the existence of the port system. The port advocates have every right to ask the federal government to continue to bear their fair share of the costs. Those who argue that the federal government should continue to gain the benefits and shift more of the costs to the local people are espousing a completely inequitable concept.

PORT ECONOMICS

Perhaps ports would be less resistive to the attempts to shift additional costs to them if they enjoyed large surpluses of funds. That, that is not the case, was made amply clear by a study a few years ago by the American Association of Port Authorities. It demonstrated that on the average throughout the country, the return on investments was approximately 2%. Obviously then, many ports were not producing a surplus.

Furthermore, those ports that do enjoy a surplus have consistent demands made upon them to invest in new and more modern cargo handling facilities. It was the port system of this country that met the challenge and developed the facilities for handling the vast numbers of containers and the volume of bulk cargoes that have allowed our country's international trade to continue to flow. These investments are being made at a far greater pace than the federal share in the entire system.

CHANNEL DEPTH REQUIREMENTS

On the surface it would appear that all ports are alike. Needless to say there are many differences. Perhaps the most striking difference is the draft requirements. By far the vast majority of our country's domestic and international trade move on waterways that are 45 feet or less deep. There is a growing requirement for deeper draft brought about by the increasing size of ships. However, it would be erroneous to project an endless growth to ship size. Economies of scale do have their limitations. This was certainly demonstrated by the seemingly endless growth in tanker size only to have the very large ones become surplus to the world's requirements. Forty-five feet depth presents a very good working depth for many years to come.

There, of course, are cargoes that require deeper drafts but they are few and readily identified. Their needs are unique and should not be superimposed upon the vast number of shippers for whom 45 feet draft is adequate. The needs of these specialized cargoes are important to the economic well being of this country, just as are those of the wide variety that use the shallower ports. There is a federal interest in these very deep port requirements. S 1739 recognizes this interest. No doubt there will be debate as to the exact level of federal participation but the concept in S 1739 is appropriate and you, Mr. Chairman, are to be commended for including it in the bill.

NEEDS OF SHALLOWER PORTS

Not all ports have reached the 45 foot draft level, nor should they. However, many do require incremental deepening. S 1739 addresses that need and recognizes the federal interest as well as the fact that local cooperation has been taking place and will continue to be required.

The exception we must take to the language is the level of local funding being set at 30% of total project cost. Recognizing the level of federal interest in port projects, the relative values to the federal and local interests and the financial condition of our ports, we urge that the local share of cost be set no greater than 20%.

O & M

We commend you, too, Mr. Chairman for your approach to the funding of operations and maintenance. The concept of a reasonably short study of how to best fund these requirements in the future by those who have the expertise makes considerable sense. It is all too easy to develop a quick solution and then see the negative results later. The study commission included in S 1739 along with their advisory committee is a well thought out concept. As we pointed out above, we believe that general fund funding of channel and harbor works, including operation and maintenance, is fully justified. Should they be forced to seek additional funding in the form of a user charge, then a uniformly

applied charge would be the only reasonable approach. The same charge for a commodity in all ports is the only equitable way to treat the matter IF a user charge is dictated. To do otherwise would be inequitable to the users, those private companies invested with facilities at ports, as well as the ports, themselves. We know that if the commission is let to such funding they will need the opportunity to examine the impacts on all involved.

It is our belief that the interim funding level of \$350 million per year for O & M may be somewhat short of the present level of funding which in turn is barely adequate. We would urge that the interim level be raised to \$400 million per year.

SACRAMENTO CHANNEL DEEPENING

We are most pleased to note that S 1739 includes authorization of the deepening of the Sacramento River Deep Water Ship Channel. The study of this project was undertaken in 1969 and has withstood every scrutiny during the study process. The study has been approved by the U.S. Corps of Engineers District Engineer, Division Engineer, Board of Rivers and Harbors and currently rests in the Office of the Secretary of the Army. In fact, we are aware of it having been transmitted to the House of Representatives with favorable comments but withholding recommendation for authorization awaiting the Administration's satisfaction with funding mechanisms for navigation projects. Thus all

seem to agree that the project is worthy of moving ahead. Its 2.4 to 1 benefit-cost ratio is further testimony to its worthiness despite the fact that it is burdened with a 7 7/8% interest rate in its calculations and a mitigation feature which may well prove to be unnecessary when construction is finally undertaken.

HISTORY EXCEEDS EXPECTATIONS

When the Corps of Engineers studied the project (which ultimately led to the creation of the current channel and harbor) in 1955, they concluded that the project would be economically viable if on the average it handled 357,000 tons per year over the 50 year economic life. In our twentieth year (1983) the 30 millionth ton of cargo moved across the docks. By the Corps' projections that should not have occurred until 1998. The level of cargo moving across the docks has reached 3.25 million tons in one year. That level of activity should have occurred in the year 2060, by the Corps' projections. Thus by any measuring stick the Port has proven its worth.

Its specialty in bulk cargoes has filled a particular need for the west coast port range. It has not only served the local area's needs but has reached back into the mid-continent region, handling cargoes of grain, animal feed and minerals from that area for export. It has been out in front of the development of

the export of a commodity that was previously waste and was burned -- wood chips. It has also succeeded in fostering exports to the extent that some 35 - 90% of its business is export which helps right the balance of payments problem this country has been experiencing.

SUMMARY

We commend you, Mr. Chairman, and your Sub-Committee for your efforts and urge:

1. adoption of the O & M features of Title 10 of S 1739
2. increasing the interim O & M funding level called for to \$400 million
3. adoption of the cost sharing approach for the 45 feet or less draft with the modification that not more than 20% local share be required
4. you continue to include the authorization of the project to deepen the Sacramento River Deep Water Ship Channel
5. that your efforts to date be brought to early fruition

Thank you.

INTERNATIONAL ASSOCIATION OF GREAT LAKES PORTS

POSITION ON

TITLE X "NATIONAL HARBORS IMPROVEMENT ACT OF 1983"

OF

THE OMNIBUS WATER RESOURCES BILL, S.1739

BEFORE

THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

UNITED STATES SENATE

DIRKSEN SENATE OFFICE BUILDING

ROOM 410

25 JANUARY 1984

WASHINGTON, D.C. 20510

RADM ROY F. HOFFMANN, USN (RET.)
PORT OF MILWAUKEE
500 N. HARBOR DRIVE
MILWAUKEE, WI 53202
PH. 414/278-3511

January 18, 1984
Milwaukee, WI

Mr. Chairman, honorable members of the Environment and Public Works Committee:

I am Roy F. Hoffmann, Port Director, Port of Milwaukee, Wisconsin, speaking on behalf of the United States ports of the International Association of Great Lakes Ports including the Ports of Oswego and Buffalo, New York; Erie, Pennsylvania; Cleveland and Toledo, Ohio; Detroit, Michigan; Duluth, Minnesota, Superior, Green Bay, and Milwaukee, Wisconsin; Burns Harbor, Indiana; and Chicago, Illinois. We will limit our comments to Title X of S.1739 - The "National Harbors Improvement Act of 1983."

The U.S. Great Lakes Ports are opposed to S.1739 because Title X of the bill does not address the unique and extremely debilitating toll system on the St. Lawrence Seaway. We also are not convinced that the creation of a National Commission on Harbor Maintenance to study long-term costs and cost-recovery options for federal operations and maintenance expenditures, is a timely nor satisfactory response to the current back-log of operations and maintenance requirements on our nation's deep water navigation system; further we have no assurance that this proposed special Commission would be any more responsive to our plea for Great Lakes' equity than the current federal review infrastructure.

We are not opposed to the Title X concept of federal cost-sharing for construction of "deep draft" and "general cargo" harbor improvements; and we support the "fast tracking" project authorization and permitting procedures of the bill.

The St. Lawrence Seaway is the only navigation waterway in American history compelled to pay its own way, including the cost of construction, operations and maintenance and debt service. I will not reiterate the historical development of this politically driven concession since this was eloquently presented by Senator Proxmire in behalf of himself and his six western Great Lakes' colleagues while testifying on the subject of user fees before the Subcommittee on Water Resources on 17 June 1983.

However, I do want to emphasize the negative impact of these exorbitant tolls and how they have denied Congressional and national expectations of seeing the Great Lakes/St. Lawrence Seaway System develop into a truly efficient and competitive international navigation system.

The first U.S./Canadian agreement on tolls was entered into in 1954. The tolls remained at that level until 1978 when a joint agreement increased the tolls by 100%, and we have added another 28% increase since then for a total increase of 128%. Canadian tolls account for 71% of the total.

The impact has been devastating to international shipping on the Seaway System. Since the doubling of tolls in 1978, foreign vessel calls on U.S. Great Lakes ports have declined over 50% with concurrent precipitous drops in international cargo.

The 1978-82 toll increases were necessary even though the Merchant Marine Act of 1979 relieved the Great Lakes/St. Lawrence Development Corporation of paying interest on the construction debt. Congress also forgave the remaining construction debt on the Seaway in 1982. However, despite these congressional concessions and toll increases, the General Accounting Office has determined in a 1983 report that budgeted expenses will probably exceed currently projected revenues. Thus it appears we have reached a point of diminishing returns.

The state of our economy over the past several years and navigation limitations of the Seaway are of course additional major factors in the decline of international trade on the Great Lakes; but few individuals, other than those directly involved, fully appreciate the enormity of the current tolls on the Seaway and their negative influence over any hopeful recovery on this trade route. Ships traveling from Montreal to Lake Erie via the St. Lawrence River and Lake Ontario, currently must pay cargo fees of \$.83 per metric ton on grain, \$1.16 per MT on containerized and bulk cargoes, and \$2.56 per MT on general cargo. In addition, a ship must pay a gross displacement fee and lockage charge of \$2000 per transit on the Welland Canal.

For a relative comparison, we refer to a U.S. Department of Commerce (FDA) summary report of 16 September 1983, The Economic Effects of Levying a User Charge on Foreign and Domestic Commerce to Finance Harbor Maintenance by Bushnell, Peirsall, and Trozzo, Inc. This report estimated that a nationwide uniform charge of \$.25 per short ton levied in 1979 on all imports, exports, and domestic traffic would have recovered all operations and maintenance costs incurred by the U.S. Corps of Engineers for U.S. deepwater coastal and Great Lakes ports in that year. Thus Great Lakes' maritime users are already paying tolls well over four times the maximum fee per ton that would be required for a nationwide uniform user fee system designed to recover all annual operation and maintenance costs for the nation's entire deep water navigation system.

It is not unusual for an ocean going general cargo ship to exceed \$100,000 in round trip Seaway tolls to and from Chicago. Put in another way, the tolls on a proposed feeder ship service from Halifax to Chicago and return would exceed 3.5% of the total ship operating costs, including debt service on the liner service capital investment. In an industry that operates well below 10% return on investment, it is readily apparent why international trade is approaching extinction on the Great Lakes.

The loss of U.S. maritime revenues and jobs because of high tolls on the Seaway, is not limited to the Midwest. Analysis of Department of Commerce import and export documents from the eight Midwest states west of Lake Michigan from 1 September 1982 to 30 August 1983 indicates a total of 4.4 million short tons of general cargo in and out of these states in this one-year period. 1.6 million tons or 36% of this Midwest cargo was moved by intermodal means via the Port of Montreal. This is a tremendous loss to the entire U.S. transportation industry, including cargo lost to U.S. truck and railroad movement. Obviously much of this cargo was "diverted" from intermodal shipment through U.S. central and northeast Atlantic ports.

As stated previously, the Great Lakes ports support a federal cost sharing program for operations, maintenance, and improvements of the nation's deepwater navigation system, contingent, however, upon the following provisos:

1. Federal control of the nation's navigation system.
2. A value-based national uniform user fee.
3. Elimination of U.S. tolls on the St. Lawrence Seaway and integration of the Seaway into a single nationwide navigation system.

We suggest that the primary concepts of the Deep-Draft Navigation Act of 1983, (S.865) be substituted for Title X of S.1739. S.865 goes a long way toward upgrading the stepchild status of the Great Lakes system. The bill achieves our first two objectives, quoted above. It recognizes that the U.S. deep-draft navigation system did not come about by chance, but rather as a clear cut objective to satisfy basic national and economic military needs. The federal interest extends not only to improving our balance of trade, but also in serving the trade needs of landlocked states and the national defense. These interests require that the Federal government remain a viable partner in the creation of the port system.

S.865 institutes a cost recovery system that would assist the federal government in funding deep-draft navigation maintenance and development through: 1) a value-based, nationally uniform user fee system to recover operation and maintenance costs, and; 2) a graduated local federal matching fund for new construction projects similar to the concept of Title X.

The "uniform" aspect of O&M user charges is vital to Great Lakes ports. If the charges were port specific, cost disparities could cause cargo diversions and create regional economic disruptions and even the closing of high-cost ports.

Basing the uniform fee on the value of the cargo is also very important to the Great Lakes region. The value of Great Lakes cargo varies from a few dollars a ton, for commodities such as sand, cement, coal and iron ore, to many thousands of dollars for very high-value cargoes such as machinery, chemicals and cargoes that are moved in containers. The higher the cargo value, the less sensitive it is to user charges. Even more importantly, in many cases the lower value cargoes are the raw materials used by U.S. industry to manufacture finished and semi-finished goods. These materials generate far greater tonnage than the high-value products, especially on the Great Lakes. A large majority of our products fall into the low volume/high weight category.

I would like to cite an example to further emphasize the importance of the ad valorem concept to the Great Lakes/St. Lawrence Seaway System. Iron ore, coal and limestone, three relatively low-valued bulk commodities which go into steel production, make up over 77% of all tonnage moved on the Great Lakes/St. Lawrence Seaway System. Comparing the sixteen cents tonnage charge originally suggested by a draft administration cost recovery bill to the maximum ad valorem rate proposed in S.865 demonstrates that the flat tonnage charge would have over eight times the impact on total transportation costs of these three major Great Lakes commodities. Implementation of a user fee based strictly on tonnage would be catastrophic to all domestic and international bulk commerce. We recognize that an ad valorem fee could be exorbitant on extremely high valued container cargo, and that some modification may be required for this category of cargo.

We also appreciate that our objective No. 3, total elimination of the current toll system on the Seaway, may create a problem because tolls on the St. Lawrence Seaway are negotiated formally with the Government of Canada. However, there are also many Canadian maritime interests that are equally supportive of eliminating the current debilitating toll system, and there are indications that the Canadian government is investigating this possibility. We therefore strongly recommend that Section 303 of S.865, be included in Title X. This would establish consultation between the Secretary of the State and the Government of Canada with the objective of reducing or eliminating all tolls on the Great Lakes including the St. Lawrence Seaway. This is especially important since Canadian tolls now equal 71% of all Seaway tolls.

In summary, the U.S. Great Lakes ports oppose Bill S.1739 because it does not address the serious toll issues on the St. Lawrence Seaway. We would support a federal cost sharing program for recovery of the operations and maintenance costs of our federal navigation system providing it is on a "one system - one fee" basis.

Very respectfully,

INTERNATIONAL ASSOCIATION OF GREAT LAKES PORTS



ROY F. HOFFMANN
Rear Admiral, USN (Ret.)

RFH/rac

Remarks by George J. Ryan
President, Lake Carriers' Association

Submitted for the Record of the Committee on
Environmental and Public Works
U. S. Senate

January 25, 1984
Washington, D. C.

Mr. Chairman and Members of the Senate:

I am George J. Ryan, President of Lake Carriers' Association. Our members are the owners of U. S.-flag bulk ships serving in the domestic trade. Cargoes include iron ore for Great Lakes steel mills in Illinois, Indiana, Michigan, Ohio, and Pennsylvania; coal for domestic power generation and export; grain from midwestern farms; limestone; cement, sand, and petroleum products.

In my June 25, 1983 testimony before this Committee, I asked that no user tax legislation for O&M of deep-water ports be enacted until a congressionally-sponsored economic impact study is conducted. The study must establish the level of regional and national impact on the mining, steelmaking, manufacturing, and construction industries. As I review S. 1739, I find that this economic impact study is still needed.

Section 1001 creates a National Commission on Harbor Maintenance composed of the Secretaries of the Army, Treasury, and Transportation, the special trade representative, and a Chairman appointed by the President. This Commission would be expected to report to the Congressional committees in two years with its recommendations on the level of recovery of harbor maintenance costs. Lake Carriers' Association believes that this Commission would be unable to properly make such a recommendation without study of the nation-wide and regional economic impacts of user taxes. The Economic Development Administration and International Trade Administration Study completed in September, 1983 by Bushnell, Pearsall, and Trozzo, Inc. clearly points out the negative economic effects of levying user taxes. The conclusions bear careful attention by the Congress and by the Administration. The report states that the port and shipping industry and the hinterland industries would experience declines in sales, employment, and income; and that customs duties collections would decrease as would federal, state, and local income and indirect business tax collections. The commodity balance of trade would also decrease because the decrease in the value of U. S. exports is greater than the decrease in the value of U. S. imports. An abstract of this study is included in this testimony for your ready information. The Commission, in order to properly carry out its duty, must be authorized and funded to carry out a nation-wide and region-specific economic impact analysis lest the dangers pointed out by the EDA study come to pass. Without this analysis, I fear that with the Commission, composed of all persons appointed by the President, would have a bias in the direction of carrying out Administration policy which seeks revenue enhancement user charges without apparent regard for the economic impact. A Shipping Advisory Board, while giving the user some say in this important matter, cannot carry out the task of providing an economic impact analysis. A Shipping Advisory Board can only advise the executive members of the Commission, much as industry is doing now in these hearings.

Lake Carriers' Association
January 25, 1984
Washington, D. C.

Section 1003 requires the general cargo ports to provide a non-federal share of 30 percent of the cost of construction during the period of harbor construction. We believe that the comments above on a user tax study are relevant to this section. It is premature to establish any percentage of local contribution for new construction until the study is completed. However, for planning purposes, we would ask Congress to consider an additional paragraph in this section which would take into consideration the special international characteristics of the Great Lakes connecting channels. A new section should be added as follows. "Because of the international character of the connecting channels and locks in the upper Great Lakes, there is no requirement for non-federal interests to be responsible for the costs of studies, construction, maintenance, dredging, or improvements, as required, of the general cargo ports." This provision is necessary since the connecting channels on the Great Lakes are not within the jurisdiction of an individual port or state. Many of the connecting channels cross the international boundary between the U. S. and Canada and are traversed by Canadian vessels, other foreign vessels, and U. S. vessels. These channels should be developed, improved, and maintained by the federal government exclusively.

Section 1006 authorizes a non-federal interest to collect fees to cover the cost of its share of a project construction cost as well as an incremental maintenance cost for ports over 45 feet in depth. This section does not address the collection of fees for a non-federal share of maintenance of harbors less than 45 feet in depth. However, the formula, which would require that not less than 80 percent of such fees be assessed on users that benefit directly, does give us concern because of its potential application to future dredging maintenance fees. Beneficiaries of harbor improvement projects have been the local community and local industries. The direct beneficiary is often not the ship owner. Since Congress does not require a user fee to be collected, and in fact would allow that these local costs be carried as a general non-federal expense of local government, we do not believe a formula dividing the costs is necessary. Allow local government to decide how to tax to pay for these improvements or maintenance.

Concerning a section which is not in Title X, we are pleased to see that there is no provision which would call for year-round navigation on the Great Lakes, such as has been included in the House of Representatives bill on waterway improvements. While incremental season extensions with due regard to environmental protection and the needs of commerce are necessary, we believe it would be a waste of federal funds to attempt to provide for year-round shipping on the upper lakes. Our industry knows Great Lakes shipping better than anyone because it has been our ships and our men who have been out during the winter in the extended sailing season. For economic and technical reasons, we believe an extension is not necessary beyond the end of January unless national emergency conditions require longer.

Thank you.

GJR:cal
1-18-83
Attachment

Lake Carriers' Association
January 25, 1984
Washington, D. C.

ECONOMIC EFFECTS OF LEVYING A USER CHARGE ON FOREIGN AND DOMESTIC
COMMERCE TO FINANCE HARBOR MAINTENANCE
SUMMARY REPORT

Bushnell, Pearsall, and Trozzo, Inc.
209 Duke Street
Alexandria, Virginia

This work was completed on September 16, 1983 under a grant from
the Economic Development Administration, U. S. Department of Commerce
No. RED-790-G-82-8(99-7-13598)

Comments from Report

The methodology of this study was to use an input/output analysis. The base year was 1979. It considered the impacts of a 25-cent per-ton charge in 1979 on deep-water foreign and domestic commerce. The study concluded that this level of charges would have generated revenues of \$337 million, but would also have brought about a decline in employment of over 10,000 jobs and in incomes of approximately \$260 million. Income and indirect business tax revenues at federal, state, and local levels would have declined by \$67 million and that a decline in federal customs duty collection would have been over \$12 million. All of this would have resulted in a commodity balance of trade decrease by almost \$56 million. The study also concluded that the charge would have caused a decline in exports of almost 2.1 million tons or about .6 percent of the overall export tonnage in 1979.

The regional impact was considered. As a result of the user charge, the Gulf area's decline in employment, income and tax payments would be the largest in absolute terms. The North Atlantic port area would experience the greatest traffic decline in imports and the Great Lakes port system would suffer the greatest decline in exports. The largest direct impact of the charges would fall upon the deep-sea and Great Lakes water transportation sectors. The insurance sector would also experience a decline in direct sales. It was further concluded that varying the user charge should not change the relationships because of the "response functions" that were used to estimate the changes in traffic as a result of the charge.

This analysis demonstrates clearly that levying a charge on waterborne imports and exports and on coastal and Great Lakes deep-water unloadings does not result simply in a straight-forward increase in government revenue.

The analysis shows that the imposition of a user charge can be expected to cause (1) declines in the sales transactions of the carrier, port, and supporting industries supplying the deep-water transportation services and (2) a variety of adjustments in the sales of "hinterland industries" producing goods that are exported and consuming or displacing goods that are imported. On net (a view to be taken with extreme caution because it obscures the total adjustments taking place), it was shown that the port/shipping industry and the hinterland industries would experience declines in sales, employment, and income. It was also shown that, as a result, customs duties collections would decrease, as would federal, state, and local income and indirect business tax collections. The commodity balance of trade would also decrease because the decrease in the value of U. S. exports is greater than the decrease in the value of U. S. imports.

TESTIMONY

OF

CHRISTOS KRITIKOS

FOR THE

GREAT LAKES TASK FORCE

TO THE

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SUBCOMMITTEE ON WATER RESOURCES

ON

TITLE X OF S. 1739

DEEP-DRAFT NAVIGATION USER CHARGES

JANUARY 25, 1984

INTRODUCTION

My name is Christos Kritikos, President of CERES, Inc., which for more than a quarter century has provided stevedoring services in 29 U.S. and Canadian port locations. We operate at 7 U.S. ports on the Great Lakes.

I am speaking today on behalf of the Great Lakes Task Force (GLTF), a coalition of states, ports, unions and maritime industries, which for two decades has provided an essential coordinated voice for maritime and shipping interests on the Great Lakes/St. Lawrence Seaway System. GLTF membership includes the American Marine Officers Service; the Great Lakes Association of Stevedores; the Council of Lake Erie Ports; the International Longshoreman's Association (AFL-CIO) Great Lakes District; Lake Erie Coal and Ore Dock Council; Marine Engineers Beneficial Association (Great Lakes District), Transportation Institute and the eight Great lakes states of Illinois, Indiana, Ohio, Michigan, Minnesota, Wisconsin, New York and Pennsylvania as represented by the Great Lakes Commission.

We are concerned with proposed deep-draft user charge legislation and have specific recommendations for provisions that should be included in S. 1739.

GLTF POSITION ON USER CHARGES

The GLTF has the following position on deep-draft user charges:

1. The Great Lakes/St. Lawrence Seaway System should be exempt from all added user fees so long as the present and existing tolls continue to be imposed upon U.S. and Canadian Seaway locks.
2. As part of any deep-draft user charge legislation, there must be an extension of the Great Lakes navigation season of up to 10-3/4 months and up to 10 months on the St. Lawrence Seaway.

USER FEES

We have serious concerns over user fees for both the nation and specifically for the Great Lakes. It is important to realize that shippers through the Great Lakes have been paying user fees for 25 years. Tolls on the movements of both the deadweight transit of vessels and their cargoes have been a fact of life for shippers through the Seaway for a quarter of a century. Because the Seaway System has been burdened by tolls while no other deep-draft waterways in the U.S. have been charged, it is our position that the Great Lakes/Seaway System should be exempt from all added user fees so long as the present and existing tolls continue to be imposed on the Seaway users.

The study by the U.S. Department of Commerce on the economic impacts of a 25-cent per ton user charge on deep-draft shipping indicates that the fee would indeed return revenue to the federal government; however, perceptible negative impacts would occur not only to port and shipping interests, but also to the hinterland and to the government itself. For industry it would mean declines in sales and accelerated unemployment. Custom collections would be curtailed, as would federal, state and local income taxes, along with direct and indirect business taxes. Moreover, since U.S. exports would suffer to a greater extent than U.S. imports, user fees would result in a negative impact on the U.S. balance of trade.

A recently completed study on the impacts of user charges on Great Lakes shipping concluded that charges on domestic shipping only could cost shippers up to \$46 million annually. In terms of overseas shipments, the study did not determine the dollar impact; however, the study found that Canadian grain could gain a competitive advantage as a result of a user charge on U.S. grain exports from Great Lakes ports.

The findings of these two studies demonstrate that the Great Lakes region can be expected to experience the most severe economic losses, relative to other U.S. port regions, from imposition of deep-draft user charges. In light of this, we cannot support user charges; however, if they are imposed, the legislation should eliminate Seaway tolls.

SEASON EXTENSION

Currently, the Seaway is closed to navigation during a 3-1/2 month winter period, from December 15 to March 31. The locks at Sault Ste. Marie, which connect Lake Superior to Lakes Huron and Michigan, are closed for approximately the same period of time.

The present 8-1/2 month season seriously inhibits international trade from the Great Lakes region because it requires that shippers and traders must reroute their freight movement to coastal ranges early in the Fall and retain these alternatives movements into the Spring, creating the necessity for and the excessive costs of dual shipping schedules and routings.

Extension of the navigation season has been a consistent priority of the GLTF since the Congressionally funded multi-agency Winter Navigation Board was formed over a decade ago. Chaired by the Corps' of Engineers, the Winter Navigation Board determined that a substantially extended shipping season was not only environmentally safe but also engineeringly feasible for the Great Lakes/Seaway System, and would have substantial benefit for the entire nation. Environmental interests succeeded in blocking further investigation of an extended season, and the extended navigation season issue was essentially laid to rest.

We support an incremental extension of the navigation season of up to 10-3/4 months on the Great Lakes and up to 10 months on the St. Lawrence Seaway; however, we recognize that such an extension should proceed only if it is cost effective and that adequate environmental studies should be completed prior to implementation of any extension.

To accomplish the necessary studies and establish the framework for such an incremental approach, the GLTF urges legislation that would establish a federal coordinating board comprised of the St. Lawrence Seaway Development Corporation, Secretary of the Army, Department of Transportation (Coast Guard), and Department of Commerce (NOAA) to oversee implementation and to annually report to Congress on both the status of the implementation and the environmental studies. Such a board would also be charged with coordinating these programs with Canadian government agencies and with international agencies such as the International Joint Commission.

CLOSING

I appreciate this opportunity to voice the concerns of the GLTF on deep-draft user charges to the Subcommittee on Water Resources. I would welcome any questions on these critical issues.

Edward J. Deaher, *President*
 Henry F. Corry, *Vice-President*
 William A. Harrison, *Executive Director*
and Secretary
 Charles E. Mather III, *Treasurer*
 James F. Young, Esq., *Solicitor*

THE PHILADELPHIA MARITIME EXCHANGE

913 LAFAYETTE BUILDING, PHILADELPHIA, PA. 19106-2488
 (215) 925-1522

January 25, 1984

Senate Committee on Environment & Public Works
 Subcommittee on Water Resources
 Senator James Abdnor, Chairman
 4204 Dirksen Senate Office Building
 Washington, DC 20510

Dear Mr. Chairman & Committee Members: Re: S.1739

We at the Ports of Philadelphia have from the onset of the user fee debate held firm to the position that the Federal Government should continue its role to provide full funding for the operation and maintenance of the nation's channels and harbors. We have refused to yield this position for several critical reasons. We are not obstructionists but rather view proposals to eliminate or substantially reduce the federal responsibility for maintenance of our channels as placing in jeopardy what is one of this nation's major success stories.

At the founding of the Republic, the Federal Government agreed to provide the necessary funding to maintain the harbors and channels if the states would waive to the Federal Government their right to collect customs receipts. As the system evolved the private sector provided the needed capital for extensive shoreline development receiving assurance that reliable water access/egress facilities existed. The result has produced the finest waterborne transportation system in the world. It is also the underlying foundation for the country's total transportation infrastructure. This unique partnership is every bit as viable today as it was when its principal goal was to develop the nation's navigable waters.

Our ports today generate over \$7 billion which accrue to the Federal Government in the form of customs revenues. In order to attain this level of income, the Federal Government spends about \$500 million to maintain our existing navigable waterways. At the Ports of Philadelphia in 1983, the Federal Government spent approximately \$32 million in O & M funds while collecting \$295.5 million in customs receipts. We, therefore, consider the argument specious when we hear the advocates of navigational waterway cost recovery for O & M shrug off customs collections as not being germane to the issue. To the contrary, they are totally germane when one understands the historical relationship of customs revenues and the key role which they have had and continue to have in developing and perpetuating our national port system.

Tampering with this highly productive system by withdrawing the federal support for the O & M segment of the system is extremely risky. It not only is disruptive in terms of waterborne commerce but equally so to the rest of the transportation net that is so inextricably linked to water transportation.

It is also important to note that there will also be a loss of capital investment in both new and existing shoreside facilities. We in Philadelphia are currently having this problem. Businesses which have made capital investment in their facilities year after year have not done so in the past two years because of the fear of what a user fee may do to the profitability of their business in this Region.. Many of our major shippers work on a small margin of profit, and any additional cost of doing business obviously further reduces the bottom line. This is particularly true for bulk commodities such as grain. In this particular industry, a fraction of a cent on a bushel of grain may be the difference between buying from a U.S. farmer or from one abroad.

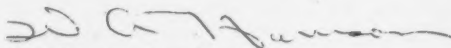
When user fees are mentioned, we in the northeast must also be concerned with the probability of cargo diversion to Canadian ports as U.S. ports are placed at an economic disadvantage. The Canadians have made no secret of their plans to attract more commerce to their new and modern ports. A year has not gone by when one or another Canadian port hasn't announced plans for modernization and expansion. They also have been very careful not to add any cost such as the user fee to their ports.

We are not suggesting that the Federal Government should shoulder the economic responsibility for new and deeper channels. As a matter of fact, as business people we would agree with the President and many members of your Committee that any proposed new deep draft project should be able to economically stand on its own without the participation of Federal Government subsidies or contributions. We feel as though the question of traditional funding of operation and maintenance has been considered in the same breath with port modernization programs. This is the primary fact which we so strongly oppose. These issues must be separated and answered independently of one another. The Federal Government must begin to cut expenditures wherever it is feasible, but to consider imposing additional fees on traditional harbors and channels is foolhardy. It is analogous to throwing the baby out with the bathwater.

The Ports of Philadelphia has played a vital and active role in shaping the future of the country. It has been a hub of commerce for more than 200 years. We move the farmer's grain, the sawmill owner's lumber, the steelmill worker's finished product, and refine and supply the bulk of the oil required to heat the homes and factories and fuel the automobiles along the East Coast of the United States. More than 100,000 men and women's jobs in a three state area depend on the future viability of the Ports of Philadelphia.

In closing, we urge the Committee to quickly dispose of this issue and continue the Federal Government's traditional O & M role of funding this nation's harbors and channels. Thank you for this opportunity to express our views.

Sincerely,



William A. Harrison
Executive Director

WAH:cam

STATEMENT OF ROBERT L. PETTEGREW, EXECUTIVE DIRECTOR
SOUTH JERSEY PORT CORPORATION

BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
U.S. SENATE
WEDNESDAY, JANUARY 25, 1984

MR. CHAIRMAN AND COMMITTEE MEMBERS, MY NAME IS ROBERT L. PETTEGREW. I AM EXECUTIVE DIRECTOR OF THE SOUTH JERSEY PORT CORPORATION.

THE SOUTH JERSEY PORT CORPORATION, AN AGENCY OF THE STATE OF NEW JERSEY, WAS CREATED IN 1968 WITH THE RESPONSIBILITY OF DEVELOPING AND OPERATING MARINE TERMINALS ON THE DELAWARE RIVER IN THE SEVEN (7) COUNTIES OF NEW JERSEY FROM TRENTON TO CAPE MAY. AT PRESENT, OUR AGENCY OPERATES TWO (2) MARINE TERMINALS ON THE DELAWARE RIVER WITH A TOTAL OF NINE (9) DEEP DRAFT SHIP BERTHS.

FOR MANY YEARS, NEW JERSEY HAD ONLY ONE SEAPORT OF SIGNIFICANCE, THAT BEING LOCATED IN THE NEW YORK HARBOR IN THE NORTHERN PART OF THE STATE. IN THE SOUTHERN PART OF NEW JERSEY, WE ARE THE ONLY PUBLIC AGENCY WHICH OWNS AND OPERATES MARINE TERMINALS. SINCE 1970, THE GROWTH AND TONNAGE OF FOREIGN TRADE THROUGH SOUTH JERSEY HAS MORE THAN TRIPLED AND OUR GROSS REVENUES HAVE MORE THAN QUADRUPLD.

A SUBSTANTIAL PORTION OF OUR TONNAGE IS EXPORT TRADE. BASED ON AN ECONOMIC IMPACT ASSESSMENT OF THE PORT WHICH WAS COMPLETED BY THE NEW JERSEY INSTITUTE OF TECHNOLOGY, IN 1980, OUR OPERATIONS HAD A TOTAL ECONOMIC IMPACT OF \$291 MILLION ON THE REGION WE SERVE.

OUR OPERATIONS ARE DIRECTLY RESPONSIBLE FOR THE CREATION OF 1,600 JOBS IN THE AREAS WE SERVE, AND FOR THOUSANDS MORE IN THE REGION. THESE ACTIVITIES ARE FUNDED BY OUR OWN INTERNALLY GENERATED REVENUES WHICH HAVE INCREASED FROM UNDER \$2 MILLION TO OVER \$8 MILLION DURING THE LAST DECADE. WE RECEIVE NO DIRECT FINANCIAL AID FROM OTHER LEVELS OF GOVERNMENT, AND IN FACT, WE PAY AN ANNUAL TAX BILL OF OVER \$700,000 TO LOCAL UNITS OF GOVERNMENT, PRINCIPALLY TO THE CITY OF CAMDEN, NEW JERSEY, IN WHICH OUR MARINE FACILITIES ARE LOCATED. CAMDEN HAS CONSISTENTLY BEEN RANKED AS ONE OF THE TEN (10) MOST DISTRESSED CITIES IN THE UNITED STATES, EVER SINCE THE DEPT. OF HOUSING AND URBAN DEVELOPMENT BEGAN TO KEEP SUCH A LISTING OVER A DECADE AGO.

SINCE 1974, SOUTH JERSEY PORT CORPORATION HAS SPENT \$2,321,000 FOR DREDGING ITS FACILITIES. SOUTH JERSEY PORT CORPORATION, IN THE LAST TEN (10) YEARS, HAS ALMOST BROKEN EVEN ON PAYMENT OF DEBT SERVICE. SJPC HAS INVESTED OVER \$20 MILLION INTO NEW FACILITIES IN THE PAST FEW YEARS.

MR. CHAIRMAN, I REALIZE THE VALUE OF YOUR TIME, AND, THEREFORE, THE PURPOSE OF MY REMARKS IS SIMPLY TO STATE FOR THE RECORD OUR SUPPORT AND CONCURRENCE WITH THE REMARKS OF MR. JAMES R. KELLY OF THE DELAWARE RIVER PORT AUTHORITY.

WE ARE STRONGLY OF THE OPINION THAT SHOULD S1739 BE ENACTED BY THE CONGRESS, AND A CAP OF \$350 MILLION BE PLACED ON FEDERAL HARBOR MAINTENANCE EXPENDITURES, FOREIGN COMMERCE IN THE DELAWARE RIVER WOULD LARGELY DISAPPEAR, AT LEAST THAT PORTION OF FOREIGN COMMERCE WHICH PRESENTLY SUPPORTS OUR PUBLIC SECTOR MARINE TERMINALS. SUCH A LOSS

WOULD HAVE SEVERE IMPLICATION ON OUR OPERATIONS AND FINANCIAL VIABILITY. ALSO, IN OUR OPINION, SUCH A MOVE WOULD SEVERELY IMPACT THE ECONOMIC HEALTH OF THE BUSINESSES SERVED BY OUR FACILITIES. THE RESULTING INFLATION OF PORT USER FEES MIGHT CAUSE A DECLINE OF COMPETITIVENESS OF AMERICAN PRODUCTS OVERSEAS, RECESSION FOR EXPORT ORIENTED BUSINESS, INCREASED CONSUMER COSTS FOR MARINE BORNE COMMODITIES AND PROBABLE REDUCTIONS IN CUSTOMS REVENUES. IT IS HARD TO BELIEVE THAT THIS EFFECT IS THE INTENT OF EITHER CONGRESS OR THE ADMINISTRATION.

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE, I URGE YOU TO CONSIDER THE PLIGHT OF THE SMALL PORTS OF THIS NATION AND THEIR ROLE IN SERVICING THOUSANDS OF LARGE AND SMALL BUSINESSES.

THANK YOU.

TESTIMONY OF
THE PLAQUEMINES PORT HARBOR AND TERMINAL DISTRICT
BEFORE THE
SENATE ENVIRONMENTAL AND PUBLIC WORKS
SUBCOMMITTEE ON WATER RESOURCES
BY
CHARLES W. NELSON, VICE PRESIDENT
WALDEMAR S. NELSON AND COMPANY

JANUARY 25, 1984

Mr. Chairman and Members of the Subcommittee,

Earlier today you were told of the results of a study by the Task Force appointed by the Governor of the State of Louisiana to investigate deepening of the Mississippi River. One of the recommendations of that study was that private industry should be encouraged to provide topping-off facilities at the mouth of the River or in the Gulf in order to attract trade to the region until river dredging can be accomplished.

In November of 1983, a feasibility study for such a project was completed for the Plaquemines Port Harbor and Terminal District. This project is known as the South Pass Bulk Top-Off Terminal and it is seen as a project that can efficiently and inexpensively serve the near term needs of the ports of the Central Gulf Coast region and the entire Mississippi River Valley. For those of you who are not familiar with the geography of South Louisiana and the Lower Mississippi River, the last eighty miles of the River and its various distributary passes are within the boundaries of Plaquemines Parish. The Plaquemines Port Harbor and Terminal District is the local authority which would benefit immeasurably by the deepening of Southwest Pass and this lower eighty miles of the River. We will be

responsible for the local share of the planning, capital, operating and maintenance, and utility relocation costs.

Until recently Plaquemines has followed a policy of being very selective regarding industrial growth. Coastal fishing, wetlands trapping of fur-bearing animals, and agriculture characterize traditional historic occupations within the Parish. Oil exploration and production activities provided additional jobs during the past 40 years. Revenues derived from abundant oil, gas and sulphur reserves allowed local government to provide very adequately for the needs of Parish residents during that period. Declining revenues from these sources and deterioration of the wetland and coastal environment have prompted a re-evaluation of this moderated growth policy. A recent change in the structure of local government has been accompanied by a more aggressive attitude towards industrial development.

Plaquemines Parish is very interested in attracting new industry and in aiding those industries currently within the Parish. Providing access to deep-draft vessels is one measure that would help in both of these efforts, as well as serve the national interest by fostering foreign commerce. One large grain elevator and the two largest land-based coal handling facilities on the Lower Mississippi are located within the Parish and additional sites are awaiting future development. It is with bright expectations that Plaquemines supports the proposed deepening of the Lower Mississippi.

Indeed, there is an underlying concern that an environmentally satisfactory river deepening project must be implemented in a timely manner. The deepening of the Mississippi on the scale proposed by the Corps of Engineers

will require considerable expenditures for construction and maintenance. If significant non-federal funding of this project via overly high user charges is required, it is unlikely that a consensus on moving the project will be reached very quickly. Yet the need to act is pressing. The latter years of this decade will see a resurgence in the growth of the world coal market. Any chance the U.S. has to maximize its participation will rapidly diminish as trading patterns and policies develop over the next two to three years. There appears to be a strong need for an interim project that would be low in cost, environmentally acceptable, and which could be quickly implemented.

The unique geography of the Lower Mississippi delta within Plaquemines Parish offers the possibility of providing such an interim project for the ports of the Gulf Coast that serve the heartland of America - the Mississippi Valley. The South Pass Top-Off project calls for the construction of a new harbor adjacent to the mouth of the lesser of the two major outlet channels of the Mississippi River. This deep-draft harbor would provide a protected environment where the river barges, large oceangoing vessels and midstream transfer equipment could safely operate. There is currently on the Lower Mississippi an overabundance of midstream equipment that could be used to transfer dry bulk commodities such as coal, ore, grain and grain derivatives from river barges directly to deep-draft oceangoing vessels, or vice versa. The location of the proposed terminal is easily accessible to vessels partially loaded at existing terminals on the Mississippi or at Mobile, Houston, Galveston or Corpus Christi.

The estimated construction cost for the proposed South Pass topping-off facility is roughly \$30 to \$35 million and the maintenance cost, since it is outside of the sediment laden distributary channels of the River, is estimated at approximately \$1.5 million annually. Environmentally the net impact of the project is positive. Economically, it would be of a scale that local interest could provide the funding, and it could be built within two years time. The debt service on the project funding could be provided by a modest assessment of a user fee applied only to those vessels that actually use the facility. It could serve to preserve and attract trade to the region while allowing the issues associated with river deepening to be resolved and would help to further demonstrate the great need for that large scale project.

Plaquemines Parish is anxious to coordinate its efforts at the federal level while proceeding with the South Pass project. We need early, accurate knowledge of the implementation schedule for deepening of the Mississippi River, along with an equitable plan for federal reimbursement of previously implemented local initiative deep-draft projects once the river deepening is actually authorized. This would compensate purely local interests for having preserved and attracted, on behalf of the nation, world shipping to the Mississippi Valley and Gulf Coast ports.

The South Pass Bulk Terminal is a local initiative project. All of the funding for the feasibility study and the permitting effort has come from Plaquemines Parish. If Plaquemines were certain that federally funded deepening of the river would proceed we would terminate this project. On

the other hand, if we were certain that the deepening project would not be implemented on a timely basis, then we would proceed with the South Pass project. The uncertainty of the federal legislative process in resolving the port funding issues leaves Plaquemines facing a choice between deferring the project (because the competition from the river deepening project makes topping-off unfeasible) or seeking protection from the federal government. The pressing need for action has led us to choose the latter alternative.

We conclude by asking you to consider these alternatives, ranked in order of their importance.

1. Full funding of the river deepening project as established in the report of the Governor's Task Force on the deepening of the Mississippi River, commonly known as the "Deep River Study."
2. If the river is not deepened in a timely manner, then permit Plaquemines Parish to go forward with its topping-off facility at South Pass. At such time as the river is authorized for deepening, provision should be made in the authorizing legislation for the assumption of the outstanding indebtedness incurred as a result of the local interest initiative on behalf of the nation's interest in foreign commerce.
3. If river deepening is authorized, but implementation is delayed, then the authorizing legislation should provide that the deepening of the river be scheduled at a time when the topping-off facility has been completely amortized.

Please consider our dilemma during your further deliberations. To this end, we request that the feasibility study prepared for Plaquemines Parish be read into the minutes of this hearing.

TESTIMONY BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ON S.1739
WATER RESOURCES DEVELOPMENT ACT OF 1983

PREPARED BY
JOSEPH COCCHIARA
EXECUTIVE DIRECTOR
GOVERNOR'S TASK FORCE ON DEEP DRAFT VESSEL ACCESS
TO THE LOWER MISSISSIPPI RIVER
STATE OF LOUISIANA

PRESENTED ON JANUARY 25, 1984
WASHINGTON, D.C.

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to express my views on S.1739, the Water Resources Development Act of 1983, and to discuss the impact of that proposed legislation on the deepening of the Lower Mississippi River.

The State of Louisiana, under the auspices of the Governor's Task Force on Deep Draft Vessel Access to the Lower Mississippi River, has recently completed a comprehensive independent investigation of the feasibility and impact of providing deeper draft access to the Mississippi River from the Gulf of Mexico to the head of deep water navigation at Baton Rouge.

This investigation required over one year to complete and cost the State \$600,000. Following an extensive evaluation of credentials, a team of three major firms were selected to conduct the requisite studies: Tippetts-Abbett-McCarthy-Stratton of New York City, Booz-Allen and Hamilton, of Bethesda, Maryland, and Pyburn and Odom Engineers of Baton Rouge.

These studies evaluated 45 alternative projects, including different depths and reaches of channel dredging, as well as a number of projects for topping off large vessels offshore. All of the usual elements of such an analysis were addressed, including engineering feasibility, public and private project costs, cargo forecasts, transportation savings, benefit calculations, and economic and environmental impact assessment.

What set this investigation apart from other analyses of navigation projects was the overriding concern to select the optimal project which would be financially acceptable given the likely need for substantial levels of non-federal funding. An analysis of financial feasibility was conducted, addressing such issues as likely federal cost sharing and the ability to finance the non-federal share of project costs through local bond issues and the imposition of user charges. Reflecting the possible need to go to the financial markets for project financing, the projections of cargo volumes and project benefits were made on conservative bases.

These studies were so comprehensive and far-reaching that the director of the Corps of Engineers' National Waterways Study called them a "landmark case" in the analysis of navigation projects in this country. I would like to submit, along with my statement, a copy of the Executive Summary of the results of these studies.

The major findings of this investigation were as follows:

First, the optimal project recommended by the Task Force based on the consultant studies is for a long range project of 55 foot depth from the Gulf to Baton Rouge, with first stage construction of a 45 foot depth from the Gulf to Mile 182 above head of passes, just above the midpoint between Baton Rouge and New Orleans. Extending the deepened channel only to Mile 182 results in significant cost savings. Whereas the Corps estimated a \$525 million initial cost and a \$137 million annual maintenance cost of a 55 foot channel to Baton Rouge, a 45 foot channel to Mile 182 would cost \$135 million initially, of which \$79 million represents dredging and related channel expenditures. Annual maintenance expenditures would amount to \$18.6 million. A 55 foot channel to Mile 182 would cost \$233 million initially, including \$176 million of dredging and related channel improvements, and \$27.5 million annually.

Average annual transportation savings for the 45 foot and 55 foot channels to Mile 182 are estimated to amount to \$93 million and \$146 million per year, respectively.

Second, the deepening of the Lower Mississippi appears to be the most important and most viable deep draft project in the country. The first stage projects are significantly less expensive than other deep draft projects, which typically range from \$400 to \$500 million.

The amount of cargo which could benefit from a deepened channel is significantly greater than with other projects. The Lower Mississippi shipped 183 million tons of foreign trade in 1981, of which almost 90%

was carried in bulk. That compares to 47 million tons shipped at Norfolk and 31 million tons at Baltimore in 1981.

Not only are the quantities of cargo greater on the Lower Mississippi, but the diversity of cargo is much greater. While other deep draft ports ship one or two commodities which might move in larger vessels, the Lower Mississippi carries a variety of commodities which could benefit from a deeper channel: grain, coal, crude petroleum, petroleum products, chemicals, minerals, fertilizers.

The port complex of the Lower Mississippi is the largest in the nation in total tonnage carried and serves a hinterland directly affecting over one third of the nation.

Clearly the deepening of the Lower Mississippi is an extremely important project to the nation. It is also apparent that the economics of the deepening projects recommended by the Governor's Task Force are, as navigation projects go, quite good, especially as compared to other deepening projects. The third and crucial conclusion of Louisiana's investigation is that, despite the economic importance, relatively low cost and superior economics of the recommended projects, even the relatively modest phase one river deepening projects cannot be accomplished solely with private financing. A 45 foot deepening project to Mile 182, financed by a tax-free debt instrument, with payback through user charges imposed on cargo benefitting from the deeper channel, would require a user charge in excess of 50 cents per ton (in today's dollars). In addition, a second debt instrument of approximately \$90 million would be required to

cover early year deficits until cargo increases generate sufficient revenues to cover debt repayment costs. A user charge set high enough to cover early year debt repayment obligations would act as a severe disincentive to use of the deeper channel. A 55 foot deepening project to Mile 182, similarly financed, would require a user charge in excess of 75 cents per ton, and a second debt instrument of approximately \$165 million.

We seriously doubt if any other deep draft project would be in better financial condition.

If the deepening of the Lower Mississippi or any other deep draft project is to proceed, a number of conditions must be provided:

1. Substantial federal cost sharing of initial construction and annual maintenance costs
2. Financing of the non-federal cost share through a federally assured, or federally provided tax free debt instrument, with appropriately structured repayment terms
3. Imposition of user charges on an equitable basis, and at a reasonable level, to repay the non-federal cost share
4. Fast tracking of authorization, appropriation and permitting procedures.

I will not recommend a level of federal cost sharing, but I do recommend strongly that deep draft projects receive the same treatment as general cargo port projects. Deep draft projects provide greater economic efficiencies, will allow our nation's exports to compete more effectively

in world markets, and will lower the cost of needed imports. Given these advantages of deep draft projects, it is counterproductive to establish a system whereby general cargo port projects are treated lavishly in comparison to deep draft projects.

It is widely recognized that federal expenditures must be curtailed in many areas, and waterway project funding is probably no exception. It would be unwise, however, to accomplish this by penalizing a project because of the depth of its channel. Any type of waterway project can be a bad investment. I urge you, if limitation of expenditure is considered necessary, to establish a stringent set of criteria for evaluating waterway projects in order to select those projects to be authorized and funded by the federal government. Limit funding levels if necessary, but don't penalize projects solely on the basis of depth of channel.

This concludes my prepared remarks. Once again I thank you for the opportunity to present these comments for the record.

EXECUTIVE SUMMARY

DEEP RIVER STUDY

Lower Mississippi River

STATE OF LOUISIANA

Governor's Task Force
on Deep Draft Vessel Access
to the Lower Mississippi River

JULY 1983

TAMS TIPPETTS-ABBETT-McCARTHY-STRATTON
Engineers, Architects and Planners
BOOZ, ALLEN & HAMILTON, INC.
PYBURN & ODOM, INC.

TAMS

TIPPETTS-ABBETT-McCARTHY-STRATTON
ENGINEERS, ARCHITECTS AND PLANNERS

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Raymond J. Hodge, P.E.
Austin E. Brant, Jr., P.E.
John E. Barden, P.E.
Robert F. Heine, P.E.
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Eugene O'Brien, P.E.
Donald R. Pattee, R.A.
Patrick J. McAnard, Jr., P.E.
Philip Fordichewski, P.E.
Lyle H. Humberg, P.E.

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Anthony R. DeCimascio, P.E.
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CONSULTANTS

Frederick J. Clarke, P.E.
Harold W. Pelling, P.E.
Robert O. Smith
Armando Bellefleur, P.E.
Paul C. Chao, P.E.
Philo P. Pattee, P.E.

CONTROLLER

Francis A. Baber

July 29, 1983

Mr. I. F. Hingle, Chairman
Governor's Task Force on
Deep Draft Vessel Access to the
Lower Mississippi River
P.O. Box 44185
Baton Rouge, Louisiana 70804

Dear Mr. Hingle:

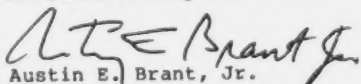
Submitted herewith is the executive summary of the Deep River Study report, prepared in accordance with Contract No. 251-3006 between the Department of Commerce of the State of Louisiana and Tippetts-Abbett-McCarthy-Stratton (TAMS), dated September 13, 1982. The executive summary is supported by three volumes: the final report; the engineering and environmental appendix; and the economic and financial appendix.

The study breaks new ground in the analysis of a major navigation project by considering state and regional as well as national economic impacts and financing capability, and by considering the use of topping-off facilities at the mouth of the channel in combination with channel deepening.

We acknowledge the valuable guidance and assistance of the Governor's Task Force on Deep Draft Vessel Access to the Lower Mississippi River as well as the assistance of the Louisiana Department of Commerce, the U.S. Army Corps of Engineers and the many other public and private interests who provided valuable comments and data.

Very truly yours,

Tippetts-Abbett-McCarthy-Stratton


Austin E. Brant, Jr.

studies as well as to advise the State on the most appropriate course of action. These studies were undertaken under contract to the Department of Commerce, under the leadership of Secretary F. Ben James.

The primary objective of the studies was to define the most cost effective project from a national, regional and local point of view. Also of importance was the need to analyze the financial feasibility of a deepening project in light of the federal administration's insistence that any new deep draft project will require a substantial level of non-federal funding.

A recommended program was selected by TAMS after consideration of more than 45 alternative channel deepening and topping-off plans including that recommended by the U.S. Army Corps of Engineers in its 1981 report "Deep-Draft Access to the Ports of New Orleans and Baton Rouge, Louisiana, Feasibility Study".

The findings and recommendations of TAMS' "Deep River Study" are described herein, including a summary description of existing conditions, the study process involved, the alternatives evaluated, and the recommended program and its implications.

EXISTING CONDITIONS

Navigation Channel

The channel is maintained by the Corps of Engineers to a depth of 40 feet below the National Geodetic Vertical Datum (N.G.V.D.--which is equal to Mean Sea Level), from the Gulf via Southwest Pass to Mile 233 Above Head of Passes (AHP) at Baton Rouge. The width of the maintained channel varies between 800-1,000 feet in the vicinity of Southwest Pass, and averages 500 feet above Head of Passes.

Many reaches of the river are naturally deep and the aggregate length of the various reaches that would have to be dredged to provide a 55-foot channel, for example, would amount to only 78 miles of the total 250-mile distance from the Gulf to Baton Rouge. The major part of the deepening would be located at the reach from the Gulf to Milepost 5 AHP and at the crossings located upstream of Milepost 145 AHP.

Terminal Facilities

The vessel berthing facilities at all of the coal terminals and some of the grain and crude oil import terminals appear to have been designed for fully-loaded vessels that could navigate a 55-foot deep channel. The cargo handling equipment at most of the grain and some of the coal and crude oil terminals would have to be modified to load deep-draft vessels efficiently.

Pipelines, Cable Crossings and Bridges

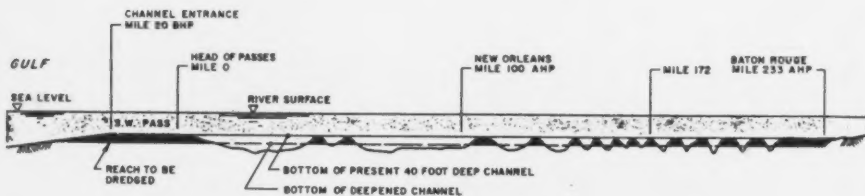
A total of 129 pipeline and 21 power or telephone cables cross reaches of the river between the Gulf and Mile

233 AHP in which dredging would be required. A minimum of 15 feet of cover is required above existing pipeline and cable crossings, and 25 feet above proposed crossings to safeguard them against ship anchors and vessel groundings. To meet these criteria, all seven of the pipelines and the one cable crossing in Southwest Pass would have to be modified, whereas only one of the pipeline crossings and none of the cable crossings in the reach between Head of Passes and Mile 172 (above Burnside) would require alteration if the channel is dredged to 55 feet. Fifty percent of the pipelines and cable crossings, numbering approximately 60, in the reaches upstream of Mile 172 AHP would have to be altered even if the channel were deepened only to 45 feet.

Six fixed-span bridges cross the River in the study area. Two additional bridges are under construction. Horizontal clearance is adequate at all bridges, but large vessel traffic may have to be restricted to one-way movements near two of the bridges. Ships should be able to clear the underside of the bridges, loaded or in ballast, except perhaps a few of the largest ships during extreme high water.

Levees, Revetments and Training Works

With careful alignment of the widened channel no significant changes would have to be made to the levees, revetments, roads and railroads alongside the River, considering that the River is very broad along most of its length. Some of the jetties in Southwest Pass may have to be modified.



SCHEMATIC PROFILE OF LOWER MISSISSIPPI RIVER

PROJECT EVALUATION AND SELECTION

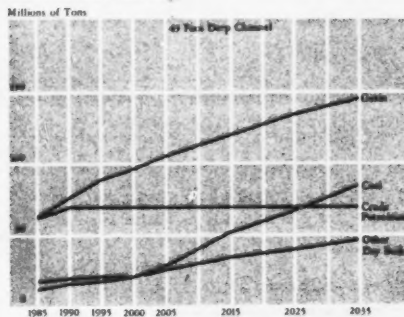
Study Process

The Study was conducted in two phases. In Phase I, a broad range of alternative plans were evaluated in order to provide a preliminary indication of project feasibility and to identify the plans to be studied in detail. Phase II of the study evaluated the alternative plans selected from Phase I as well as additional plans suggested from these.

The principal elements of the study process used to evaluate alternatives and to identify the superior project are as follows:

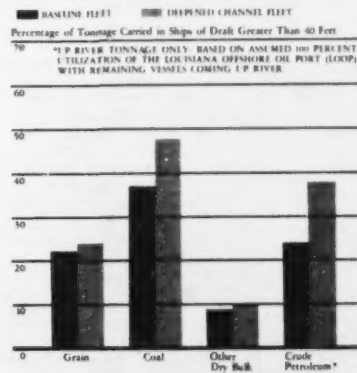
Development of Commerce Forecasts

--Forecasts were developed through the year 2035 for the principle commodities to benefit from a deepened channel -- coal, grains, crude petroleum and other dry bulk commodities. The commerce forecasts address three commerce groups -- baseline, redistributed and induced tonnage. Baseline tonnage is the trade which is expected to occur regardless of channel deepening. Redistributed commerce is cargo currently handled at other U.S. ports which would shift to lower Mississippi River ports if the channel were deepened in order to take advantage of lower ocean freight costs. Induced commerce is the additional U.S. exports which could occur because of the reduced freight costs and thus reduced landed cost of U.S. products overseas.

COMMERCE FORECASTS
MOST LIKELY LEVEL

Development of Vessel Fleet Forecasts--Fleet forecasts were developed for each commodity, including a baseline fleet (the fleet that would continue to call on the region under current conditions) and fleets for the four potential channel depths--45, 50, 55 and 60 feet.

VESSEL FLEET FORECAST 1995



Estimates of the Transportation Cost Savings Resulting from Deep-Draft Vessel Access--The estimates of savings were based on the forecasts of waterborne commerce, the trade routes involved, the vessel fleets that would serve the area under different channel depths and the difference in unit transportation costs between the fleets that would use a deepened channel and the baseline fleet.

Estimates of Project Capital Costs and Annual Operating and Maintenance Costs--These costs include expenditures in both the public and private sectors.

The capital costs in the public sector included: dredging and disposal of spoil materials; development of disposal areas on land including property acquisitions and marsh creations; modification of levees, revetments, river training works and navigation aids; measures for mitigating adverse environmental impacts including improvements to water

supply systems; and removal of shipwrecks.

The capital costs in the private sector included: relocation of pipeline and cable crossings; modification and expansion of port facilities, including deepening of berths at terminals serving deep-draft vessels; provisions of topping-off systems in either mid-stream or the Gulf; expansion of barge fleetling areas; and augmenting the fleet of tug boats and other service craft for assisting deep-draft vessel navigation.

The annual costs in the public sector included maintenance dredging and maintenance of modified and expanded public facilities.

The annual costs in the private sector included: operation of cargo transfer equipment, barges, shuttle ships, tug boats and other service craft; increases in berth time of vessels entailed in the topping-off alternatives; and maintenance of modified and expanded private facilities.

Comparison of Project Savings and Costs--The present worth of capital, operating and maintenance costs and transportation cost

savings were calculated and alternative plans were compared on the basis of both savings to cost ratios (S/C) and total net savings.

Analysis of Other Impacts of Deep-Draft Vessel Access--Other impacts include generation of increased export tonnages and employment.

Consideration of Environmental Factors--The opportunity to create marshlands and the possible increased durations of saline waters were weighed.

Comparison and Ranking of Alternative Deep-Draft Vessel Access Projects--The alternative development programs were ranked on the basis of savings and costs as well as other impacts and environmental considerations.

Analysis of Financial Feasibility--The financial analysis of the most promising development programs included identification and review of financing alternatives, a review of proposed user charge legislation, development of pro forma financial statements and an assessment of financial feasibility.

Alternative Plans

The alternative plans studied include dredging and non-dredging projects. The different features of these plans include the depth, timing and location of channel deepening, shore-based terminal facility modifications, and the use of cargo topping-off systems in the Gulf or River mouth.

Phase I of the study evaluated forty alternative plans. Phase I studies indicated that deepening the channel upstream of Mile 172 AHP would not

be warranted at the present time since only a slight increase in benefits would result, but initial and annual maintenance costs would increase substantially.

Phase II of the study evaluated in detail nine plans selected from Phase I and seven additional plans. The principal features of these plans are outlined below. Comparison of the savings to cost ratios, the net savings and other impacts resulted in the recommendation of the following course of action.

ALTERNATIVE PLANS

Group	Alternative Plans	Channel Depth (Feet)			Cargo Transport Systems	
		1985-1990	1990-1995	1995-2005	Grain	Coal
I	Dredging from Gulf to Mile 172 AHP : No Topping-off Operations					
	1	45	45	45	A	A
	2	45	50	50	A	A
	3	45	50	55	A	A
	4	50	50	50	A	A
	5	55	55	55	A	A
	6	50	60	60	A	A
II	Dredging from Gulf to Mile 172 AHP : Includes Topping-off Operations (Grain and Coal in Gulf)					
	7	45	45	45	D	C or D
	8	50	50	50	D	C or D
III	Dredging from Gulf to Mile 172 AHP : Includes Topping-off Operations (Grain mid-stream and coal in Gulf)					
	9	45	45	45	B	C or D
	10	50	50	50	B	C or D
	11	55	55	55	B	A
IV	Dredging from Gulf to Mile 15 BHP : Includes Topping-off Operations (Grain at river mouth and coal in Gulf)					
	12	50	50	50	B'	C or D
	13	50	50	50	D'	C or D
V	No Dredging: Includes Topping-off Operations (Grain mid-stream and coal in Gulf)					
	14	40	40	40	B	C or D
	15	40	40	40	A	A
	16	40	40	40	B	A

Notes: A - No topping-off operation
 B - Topping-off mid-stream in river - barge transfer
 B' - Topping-off mid-stream at river mouth - barge transfer
 C - Topping-off in Gulf - barge transfer
 D - Topping-off mid-stream at river mouth - shuttle ship transfer
 D' - Topping-off in Gulf - shuttle ship transfer

RECOMMENDED PROGRAM AND PROJECT IMPLEMENTATION

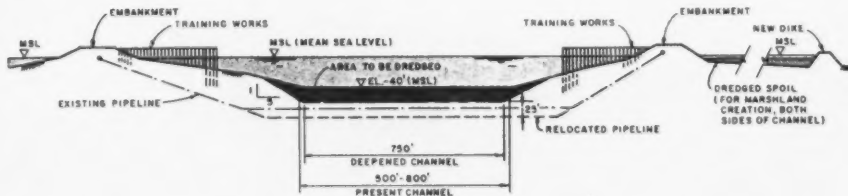
The Recommended Program

The most appropriate course of action for the State was found to be the following:

- Seek federal authorization to deepen the channel in stages to 55 feet should actual increases in commerce equal the high level of commerce (Alternative 11).
- Dredge the present 40-foot deep channel to 45 feet initially from the Gulf via Southwest Pass to Mile 172 AHP to provide for two-way navigation (Alternative 9).
- Encourage private interests to put into operation, as soon as possible, facilities for loading and topping-off grain ships mid-stream and topping-off coal carriers in the Gulf in order to attract and establish patterns of trade in large ships (Alternative 9).

Configuration of Deepened Channel

At straight reaches, a 750-foot wide channel should be provided for two-way navigation of vessels ranging upward to 125,000 dwt in size (the predominant range of vessels in the prospective ship fleet). The channel width should be increased to as much as 900 feet at reaches subject to strong currents and at many of the bends in the river.

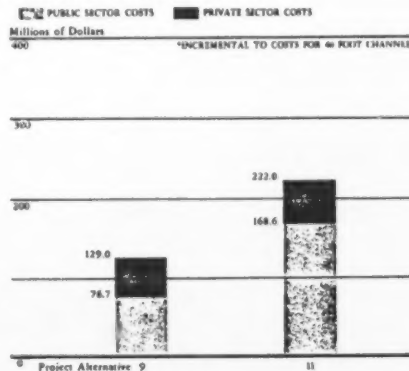


SECTION AT SOUTHWEST PASS

Costs of the Recommended Program

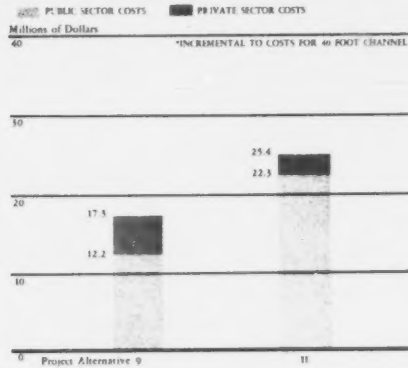
The capital costs for recommended Alternatives 9 and 11 were estimated for three stages of development: Stage I - the period to 1990; Stage II - 1990 to 1995; and Stage III - 1995 to 2005. Capital costs for all three stages are estimated to total \$129 and \$222 million for Alternatives 9 and 11, respectively. Costs to be borne by the public sector for the deepened channels are \$77 million for the 45-foot channel and \$169 million to the 55-foot channel up to Mile 172 AHP.

PUBLIC AND PRIVATE CAPITAL COSTS *



For Alternative 9, the annual costs for maintenance and operations range from \$15.2 million in the first stage to \$17.3 million in the third stage. The annual costs for Alternative 11 range from \$24.1 million in Stage I to \$25.4 million in Stage III. The public sector component of the cost for the 45-foot channel is \$12.2 million and is \$22.3 million for the 55-foot channel.

PUBLIC AND PRIVATE ANNUAL COSTS *



Transportation Cost Savings

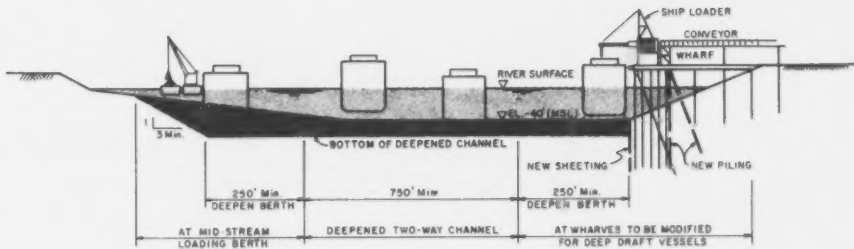
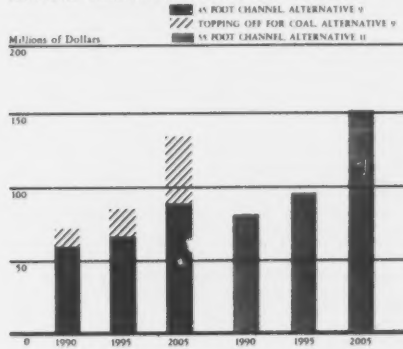
The annual savings in transportation costs for Alternative 9 are estimated at \$70.9 million in 1990, \$85.5 million in 1995, increasing to \$134.3 million in 2005. These annual savings

translate into an average annual savings per ton for all commodities equal to \$2.50 over the life of the project.

The annual savings for a 45-foot channel without topping-off facilities for coal in the Gulf are \$59.2 million in 1990, \$66.7 million in 1995, and \$88.0 million in the year 2005. These savings translate into an average annual savings per ton for all commodities equal to \$2.07 over the life of the project.

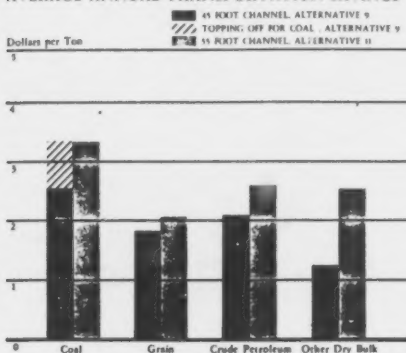
Alternative 11 savings are estimated at \$80.6 million in 1990, increasing to \$95.9 million in 1995 and \$152.0 million in 2005, which translate into an average annual savings per ton for all commodities equal to \$2.68 over the life of the project.

ANNUAL TRANSPORTATION COST SAVINGS



SECTION AT PORT FACILITIES

AVERAGE ANNUAL TRANSPORTATION SAVINGS



Comparison of Costs and Savings

The present worth of all costs and transportation savings was calculated based on a 50-year project life and a 9.0 percent interest rate. The estimated public and private sector costs and savings for the selected alternatives, 9 and 11, are compared for both the most likely and high levels of forecasted commerce.

Overall, Alternative 9 is the most favorable program for near term improvements, it possesses a Savings to Cost Ratio (S/C) of 3.6. Alternative 11 would yield the highest net savings if the high level of commerce were achieved, and should be considered an appropriate goal for long range planning.

PRESENT WORTH OF COSTS AND SAVINGS
PUBLIC AND PRIVATE SECTORS
(millions of dollars)

Alt.	Total Costs	Total Savings	Net Savings	S/C Ratio
(Most Likely Level of Commerce)				
9	206.8	740.3	533.4	3.6
11	329.5	837.1	507.6	2.5
(High Level of Commerce)				
9	238.8	1027.9	789.1	4.3
11	360.4	1169.2	808.8	3.2

Financial Analysis

Financing of navigation projects historically has been the responsibility of the Federal Government. However, the current administration now requires increased participation of the local sponsor in project financing, with recovery of project costs through assessment of a charge on users.

A large number of proposals on this matter have been introduced in Congress but no legislation has resulted as yet. A review was made of the current status of these user charge proposals in order to anticipate the magnitude and timing of the future financial obligations for the State of Louisiana and their consequent affect on project feasibility.

The financial analysis resulted in the following conclusions:

- A comparison of project savings to project costs (coverage ratio) suggests that there is sufficient reason to proceed with the project. Alternatives 9 and 11 possess coverage ratios of 3.2 and 2.8 respectively.
- User charge legislation is expected to be passed by the end of the 98th Congress (late 1984). The split between the Federal Government and the local sponsor for both new deepening projects and maintenance may well be about 50-50 percent. There will probably be a graduated local share as water depth of new projects increases.
- Both project Alternatives 9 and 11 can produce transportation cost savings adequate to support a reasonable level of user fees.
- Based on a 50-50 share, a user charge designed to fully amortize year-to-year debt service of the initial construction bond and operating costs of the non-federal share is considered unreasonably high during the early years. Such a user charge level would be a disincentive to use the deepened channel and is considered infeasible.
- The most feasible approach to financing the project is based on debt financing with a graduated system of user charges. This debt

financing approach results in user charge assessments which are reasonable and should encourage, rather than discourage, use of the deepened channel. However, debt financing results in large annual deficits in the early years of the project.

The debt financing approach requires covering the initial project deficits either from general revenues or the use of an assurance bond (second debt instrument). If the Federal Government provides initial project financing payback of the local share could be structural to avoid deficits in the early years of the project. However, if the State of Louisiana is required to finance the local share of the project through revenue bonds, an assumed second debt instrument would have to be used.

In the event that the State is required to finance its share of project costs, a second debt instrument in the range of \$47 to \$125 million will be required. Because of its outstanding indebtedness, the State may have to develop a financing package that would include a low or no-interest loan from the Federal Government where initial retirement would not begin until the late 1990s.

Other Impacts of Deep-Draft Vessel Access

In addition to yielding significant savings in vessel transportation costs for the shipping of grain, coal, crude oil and other dry bulk cargoes, the provision of access to deep-draft vessels would have other beneficial impacts on the State of Louisiana, other mid-American states, and the nation.

Economic Benefits

The principal economic benefits would comprise:

- Increased export tonnage, and consequent improvement of the U.S. balance of payments;
- Increases in employment in the State of Louisiana and other states from which commodities are shipped through the Lower Mississippi River.

The improvements in annual balance of payments are estimated to range from \$90 million in 1985 to as much as \$280 million in the year 2005, and represent an increase of two to three percent. Increases in employment in Louisiana attendant to a 45-foot deep channel project are estimated at more than 1,000 jobs during the two to three year period when the channel and shipping facilities are improved, and subsequently would range annually from 750 jobs in 1995 to almost 1,000 jobs in the year 2005. Out-of-state increases in employment are estimated to range annually from about 600 jobs in the near term to as much as 1,900 jobs in the year 2005.

Environmental Considerations

The principal environmental issue that was addressed in the study was the effect of salinity intrusion upon water supply systems. In addition, the Corps of Engineers' final Environmental Impact Statement on the effects of a deepened channel was reviewed and evaluated as to the adequacy of the mitigative measures recommended therein with respect to:

- dredging and disposal operations;
- sedimentation;
- marsh and habitat creation;
- potential marsh loss due to redistribution of flows and sediment;
- fisheries;
- recreational activities;
- sea-bird nesting; and,
- air emission and water quality.

Computer simulation of salinity intrusion and other analyses confirmed that the toe of the salinity wedge is not likely to extend beyond the historical upstream limit (Mile 116 AHP) with a 55-foot channel. Although analyses indicate that there would be an increase in the duration of saline waters below Mile 60, the construction of additional reservoir storage capacity, estimated to cost about \$3 million, would offer a viable solution to increased durations of excessively saline waters.

The Corps' study identified ade-

quately the impacts and mitigative measures that would have to be taken. In certain areas further investigation is required. These include: evaluation of toxic wastes, marsh creation, impacts of proposed freshwater diversion projects, and a thorough Section 404(b)(1) Dredge and Fill Evaluation and Ocean Dumping Assessment, to determine impacts of dredged material disposed in the Gulf upon fisheries resources.

In the dredging alternatives the disposal of material removed in the deepening and maintenance of Southwest Pass affords an opportunity for creation of marshlands and land reclamation of the river's delta. It is estimated that the material dredged initially in deepening the Southwest Pass to 45 feet and in maintenance of that reach over a 25-year period would be sufficient to create about 4,200 acres of marshland and an additional 4,200 acres of land lying several feet above sea level.

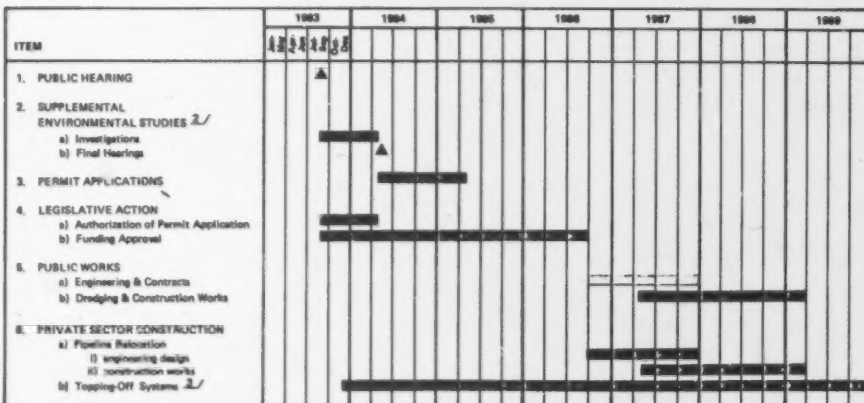
Project Implementation

If the program of channel improve-

ments recommended herein is adopted, the following measures should be taken:

- 1) Authorization should be sought for a long-range project to deepen the river channel to 55 feet.
- 2) Implementation should begin as soon as possible of the first stage of the project wherein a minimum 750-foot wide two-way channel would be deepened to 45 feet from the Gulf via Southwest Pass to Mile 172 AHP.
- 3) Private and local public interests should be encouraged to put into operation as soon as possible, topping-off facilities at the mouth of the river or in the Gulf in order to attract and establish patterns of trade in large ships.
- 4) Field investigations identified in the Corps of Engineers' 1981 Study and in this report for completing environmental evaluations for the project should be conducted--most importantly as to the levels of toxic wastes to be removed and

PROJECT IMPLEMENTATION SCHEDULE ^{1/}



NOTES

- ^{1/} This schedule is based upon a "Fast Track" implementation program.
- ^{2/} These include investigations of toxic wastes, water quality (turbidity), marshland creation, and salinity intrusion.
- ^{3/} Additional topping-off systems would be required in the immediate future and as commerce increases.

measures for minimizing turbidity and other degradation of water quality during dredging operations--and for mitigating salinity intrusion impacting upon the four public water supply systems between the Head of Passes and Mile 60 AHP.

A key factor in implementing the project is the establishment of a method for financing the deepening and related maintenance of the channel. It appears that this can be accomplished most effectively through a national program whereby initial funding of project costs would be provided from the U.S. Treasury with payback of the local share of costs over the life of the project. In the absence of such a program, an appropriate financial mechanism will need to be established within the State.

A more routine aspect of implementing the program is the preparation of final designs, plans and specifications for conduct of the dredging work. The timing of engineering activity and subsequent construction would be contingent upon formulation of definitive national and state enabling legislation, and establishment of a specific program for financing of the project.

Once the project is carried out, commodity and vessel movements should be monitored periodically to evaluate the prospects for further improvement of the channel in the future and to establish the timing for such improvements within the framework of ultimately providing a 55-foot deep channel.

Project Organization

If the State of Louisiana elects to participate with the Federal Government in a program of channel or navigation improvements, it will be desirable to establish an agency for managing the State's activities in connection with the project. The principal functions of the agency would encompass management, financing, engineering, environmental planning and public relations. The specific organizational structure of the Agency would depend upon the extent of the State's involvement in the project. Fundamental to successful operation of the Agency is the assignment of a general manager experienced in the development and operation of major projects and key staff members qualified in the aforementioned functions. A limited staff of such key

personnel and appropriate clerical assistants would be effective if the State's role in the project is secondary to that of the Federal Government. In such a case, the Agency would be similar to the organization "overseeing" the State's interest in the LOOP project, and would be able to call upon other agencies of the State to furnish advice and assistance as may be required in specialized areas. If the State assumes a primary role, a large staff of personnel experienced in many disciplines--including economics, accounting, design and construction engineering, environmental controls, public relations, personnel and clerical administration--will be required to assist the General Manager.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
BEFORE THE SENATE SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
REGARDING THE WATER RESOURCES DEVELOPMENT ACT OF 1983, S. 1739

January 30, 1984

Farm Bureau appreciates the opportunity to present our views concerning S. 1739, the Water Resources Development Act of 1983.

Farm Bureau is the nation's largest general farm organization with a membership of 3.3 million member families in 48 states and Puerto Rico. Farm Bureau policy is developed by the farmer and rancher members at the county, state and national levels of the organization.

During our 65th annual meeting earlier this month, the voting delegates adopted the following policy regarding waterways:

"Public policy should encourage expansion of inland water transportation since it represents the most energy-efficient mode... We accept the imposition of a reasonable user fee on water transportation dedicated for waterway purposes providing that its basis and maximum level are clearly established in advance and the proceeds are utilized for those waterways from which the fees are derived. Any user fee applied to water transportation should be at a level which will provide no more than that portion of the cost of waterways allocable to transportation, inasmuch as the waterways also provide significant public benefits in recreation, wildlife preservation, public water supply and flood control. Any system of user fees should be developed and administered as a uniform fee in order to maintain existing shipping facilities."

Since the Committee has already reported S. 1739, it is our understanding that the purpose of this hearing concerns Title V and Title X of the bill. Therefore, our comments will be directed to these specific areas.

Title V, Inland Navigation, establishes an annual cap of \$646 million for annual federal inland waterways construction, rehabilitation, renovation, operation and maintenance expenditures, from 1985 through 1999. The cap is intended to represent the current level of the Corp of Engineers expenditures on the inland waterways system. It authorizes the Secretary of the Army to impose and collect user charges on the commercial waterways industry to the degree necessary so that the system is sufficient to meet the needs of commercial waterway users.

This Title also establishes an Inland Waterways User Board to develop recommendations for spending levels for the next fiscal year. The bill states the the Secretary should not obligate funds under this act in excess of the levels recommended by the User Board.

Title V also authorizes 12 inland navigation projects--including replacement of Bonneville Lock, Columbia River; Gallipolis Locks, Ohio River; locks 7 and 8, both on the Monongahela River; and implementation of the recommendations of the Upper Mississippi River Basin Commission Master Plan, which includes authorization of a second lock at Lock and Dam 26, Upper Mississippi River; and directs the federal government to share with New York State a portion of the operation and maintenance and rehabilitation costs of the New York State Barge Canal.

Obviously, this Title could adversely affect agricultural shippers by the institution of additional user fees to recover waterway services costs. Briefly, Title V does not state the manner in which fees are to be imposed. Are these fees to be collected through a fuel tax, tolls, ton-mile approach, or by a combination of methods? Also, would these fees be imposed on a uniform system-wide basis or on a segment-specific basis? What would be the composition of the Inland Waterway User Board? Since agriculture will be financially affected, will agriculture have a voice on the Board? The Secretary of the Army is authorized to recommend projects, construct projects and set user fees (with or without the Board recommendations being considered). Will the Secretary of the Army also determine who will sit on the User Board?

The cap on the federal government's contribution to waterway expenditures is not indexed to inflation. Such indexing should be adopted.

Title X, Harbors, establishes a National Commission on Harbor Maintenance which would report to Congress in two years on annual and long term costs of maintaining U.S. ports and make appropriate recommendations for non-federal cost-sharing. Until the report is issued and Congress acts, this Title would place a \$350 million annual cap on federal harbor maintenance expenditures.

Section 1003 of Title X would require non-federal interests to pay 30 percent of construction costs of general cargo harbors (defined as 14 feet to 45 feet), including lands, easements, and right-of-way.

Non-federal interests would be required to finance 100 percent of construction for deep-draft harbors (over 45 feet), but may obtain federal loan or bond guarantees up to 70 percent.

Non-federal interest would also be responsible for funding 50 percent of the incremental operational and maintenance costs for ports and harbors over 45 feet.

Our concerns with respect to Title X are the same as with Title V, the nature and amount of the user fees is not spelled out in the legislation. We question whether the \$350 million annual cap is sufficient for federal harbor maintenance expenditures. Obviously, agriculture will pay for construction and operational and maintenance.

The legislation does not provide agriculture a voice on the newly established Commission on Harbor Maintenance.

We accept the imposition of a reasonable user fee on water transportation. However, farmers also recognize the need for equity in establishing a program for increasing waterway user fees as has been proposed by this legislation. Maintenance of inland waterways benefits other interests such as defense, national security, export promotion and regional economic development and recreation. We are willing to pay a pro rata share of the cost for water projects but these other beneficiaries should also share in the funding.

We believe the user fee approach will have a smaller impact on agriculture than other user fee forms and would more truly represent agriculture's share of the inland waterway usage. This is due to the largest portion of agriculture's use being "downstream" traffic and that it is mainly centered on the Mississippi and its navigable tributaries.

We also recommend that a waterway policy be adopted with emphasis on a fuel tax user fee to be imposed only after a general threshold cost is exceeded. Proceeds from the users fee should be placed in a separate trust fund similar to the Highway Trust Fund and dedicated to the maintenance and improvement of waterways. This fund should be utilized in such a way that agricultural producers' interests are fully protected.

Mr. Chairman, we thank you and the members of the Subcommittee for this opportunity to comment on Titles V and X of S. 1739, The Water Resources Development Act of 1983.

American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005
202-682-8140



C. T. Sawyer
Vice President

February 8, 1984

Honorable James Abdnor
Chairman, Senate Water Resources Subcommittee
U.S. Senate
410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The American Petroleum Institute appreciates the opportunity afforded by your oversight hearings to offer our comments on Title X of S.1739. The issue of user fees for deepdraft ports is of concern to API because our member companies account for the vast majority of crude and petroleum products imported by the United States and transported in our coastwise trade.

The latest data available from the Corps of Engineers (1981) indicates that crude oil and petroleum products accounted for 85% of this country's coastwise trade and 38% of our foreign trade by tonnage. Although imports and coastal movements have dropped since 1981, waterborne petroleum movements still account for a substantial amount of our nation's waterborne commerce. Because cargo owners would bear the added burden of any user fees, API member companies have a substantial interest in the outcome of the national debate on deepdraft port user fees. We support the detailed study of this issue as established by Section 1001 of S.1739.

The committee should recognize, however, the pressing need to maintain the existing deepdraft navigational system. We most strongly urge that sufficient federal funding for current operations and maintenance (O&M) continue through the two years needed to complete the Section 1001 study. The additional costs to shippers and consumers of inadequate maintenance dredging are enormous. One API member company, operating on the Gulf and East coasts of the United States, has estimated that an effective loss of one foot of draft would cost the company approximately \$10 million per year. If costs of this magnitude for one company are extrapolated across the remainder of the petroleum industry and the dry bulk and liner trades, the total would far exceed the \$350 million now expended for maintenance dredging. It should be kept in mind that such excess costs would ultimately be borne by the consumer.

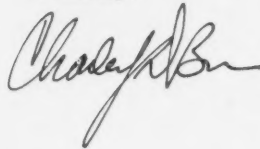
As users of the existing navigational system, API member companies are also concerned with the inordinate amount of time required to secure permits necessary for dredging projects. S.1739 addresses this concern for new navigation projects. API suggests that the scope of the study established in Section 1001 be expanded to include the permitting process for maintenance projects.

There should be a requirement that new navigation projects be self-sufficient with specific fees set for each project. Sponsoring organizations should be required to recover costs of both capital and any increased maintenance. It is also proper for the federal government to participate in those new navigation projects that benefit the national interest. However, the degree of federal participation should be determined on a case by case basis. API cannot support any proposal that gives blanket endorsement to any and all new projects. Each new project should be judged on its own merits and the proper federal role, if any, determined at that time.

S.1739 draws a distinction between new construction in deepdraft and general cargo ports. Sections 1002 through 1006 develop funding protocols for the planning, engineering, design and construction of new navigation projects falling in these two categories. API believes that the distinction drawn between general cargo and deepdraft ports is unnecessary. We urge that Sections 1002, 1003, 1004 and 1006 be modified to insure that all non-federal costs for any new navigation project over and above currently maintained widths and depths will be borne entirely by the beneficiary of that improvement.

API appreciates the opportunity to submit our thoughts on this issue during your oversight hearings. If you or your staff wish, we would be most happy to discuss these points in greater detail.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles F. Brown", written in a cursive style.

Statement
of the
American Soybean Association

Mr. Chairman:

The American Soybean Association appreciates this opportunity to comment on S. 1739 and its impact on agriculture. We ask that our remarks be submitted for the hearing record.

The American Soybean Association is a national, volunteer, non-profit, producer-controlled, single commodity association organized to assure the opportunity for a profitable soybean industry. ASA has over 24,000 dues-paying members and is supported by more than 450,000 soybean producers who voluntarily invest in ASA programs through 24 separate statewide soybean checkoff programs. ASA seeks to maintain soybean profitability through its foreign market development, research, producer and public information, and government relations programs.

Title V of S. 1739 contains authorization of a second lock at the new Lock & Dam 26 facility near Alton, Illinois on the upper Mississippi River. ASA policy specifically cites completion of this project as vital to preventing costly grain traffic bottlenecks, and to serve as a safety valve should the main lock be closed down for repairs. ASA supports inclusion of this project in waterway development legislation in both the Senate and House measures now pending.

At the same time, Title V calls for the establishment of an Inland Waterway Users Board to serve as advisor to the Secretary of the Army in determining the level of expenditures needed for commercial navigation. If soybean farmers help pay for the smooth operation, maintenance and development of America's inland waterway system, then Congress should ensure that they have substantive input into how their funds are spent. Without some formal opportunity for recognized input, users will have no assurance as to where their funds will be disbursed. ASA believes farmer representation should be included if such an advisory board is established.

Title X sets a \$646 million annual cap on federal expenditures from FY'86 to FY'99 with expenses above that level to be recovered through a system of user fees. ASA considers cost-recovery a farm income issue, because user fees will not be absorbed by our overseas customers. If user fees are applied to the nation's waterways and ports, they should be phased in gradually. In order to uphold the integrity of our water system, waterway and port operation and maintenance fees should be applied on a uniform and systemwide basis. This will not place one part of the system at a severe economic disadvantage over another. Imposition of user fees on one export facility and not another would create a severe competitive disadvantage at no fault of the grain exporter. Fees should be applied carefully to prevent abandonments of water carrier service crucial to American farmers.

Title X of S. 1739 would call for non-federal users of U.S. ports to pay 30% of construction costs of general cargo ports (less than 45' deep), and 100% of construction costs for deep draft ports (more than 45' deep). In addition, non-federal users would be required to fund 50% of incremental operation and maintenance costs for deep draft ports.

Because of the mutual nation-industry interest in healthy U.S. ports, the American Soybean Association supports joint federal and local cost-recovery of port operation and maintenance expenses. However, the U.S. soybean industry does not need large scale, deep draft dredging projects to create U.S. superports. Overseas ports which receive U.S. soybeans, except for Rotterdam and Incheon, do not have deep draft channels leading to grain off-loading facilities. Since soybean farmers do not need vast new deep draft dredging projects, we believe we should not have to bear the costs of non-grain related dredging or other commodity-specific improvements. If a true "user fee" is to be charged, then equity demands that the burden of financing be placed on the true users.

CONCLUSION

As soybean production and export volumes expand in response to increases in world population and food requirements, it is vital to maintain and selectively upgrade the nation's waterway system. Without improvements we face significant grain transportation problems which means added costs due to increased time on the waterways.

Any user fees should be reassessed periodically in order to reflect shifting demand and transportation trends. Since ASA could not support blanket regulatory authority to decide the level and type of fee to impose, we urge Congressional development of any user charge imposed as well as frequent oversight of its impacts.

GEORGE E. ANDERSON
924 NORTH SPRING AVENUE
LA GRANGE PARK, ILLINOIS 60523

Honorable Robert T. Stafford, Chairman
Committee on Environment and Public Works
United States Senate
4204 Dirksen Building
Washington, D. C. 20510

February 4, 1984

Subject: Statement for the record of the January 24 and 25, 1984 hearings on the commercial navigation aspects of S. 1739.

Dear Senator Stafford:

As a recently retired professional engineer who has studied inland waterway projects and policy issues the past 23 years, including several years as a part time and 9 years as a full time inland waterways consultant (after 26 years of teaching or technical research at two midwest colleges), I welcome this opportunity to submit a detailed three part statement for the record of the Jan. 24 and 25, 1984 oversight hearings. It is encouraging that your committee is re-examining the commercial navigation aspects of S. 1739, and I hope my statement proves helpful. Of the six questions which your Nov. 26, 1983 news release indicated should be "among the questions that witnesses should address" at the Jan. 24 and 25 hearings, my statement deals essentially with the first two regarding to what degree: 1) should the Federal government continue to subsidize commercial navigation? and 2) should Title V encourage more cost effective work? Part I of my statement presents background information on the major deficiencies in the project evaluation procedures which have led to ill-advised inland waterway projects. Part II analyzes the Dept. of the Army's cost recovery recommendations particularly as to their value, if any, in weeding out the less feasible projects. Part III presents my recommendations, regarding Title V in S. 1739, for improving the cost effectiveness of, and for establishing the level of Federal subsidies with, inland waterway projects. A summary of my statement follows.

Evidence that the Users Could Pay Only a Very Small Portion of the Proposed Modernization and Rehabilitation Expenditures

While many believe that those who benefit from water resource projects must be willing to share in the cost of these projects in proportion to the benefits they receive, perhaps few realize what a very small portion of the cost of the proposed inland waterway expenditures the users would be able to pay. This fact was disclosed by the Water Resources Council's Interdepartmental Task Force On Cost Sharing in their August 1973 report on "Cost Sharing for Water Resources Investments" which stated: "Except for navigation, it is the judgement of the Task Force that a minimum non-Federal cost sharing of 25 percent of direct investment costs of Federal and Federally assisted projects could be met by all purposes." The Director of the Council, Warren Fairchild, in a Jan. 24, 1974 letter, stated that with navigation projects a minimum repayment of 25% of future direct investment costs plus the operation and maintenance costs could not be done "without serious disruption taking place thereby making it impossible for navigation to remain a viable function." (It is important to understand that no such conclusion surfaced from the Section 205 study of the impact of inland navigation user fees because the study did not include the future investment costs being proposed by the Corps.) The Water Resources Council subsequently recommended a specific level of cost sharing for each of the various water resource project purposes, similar to those in S. 1031 and in Title VI of S. 1739, including navigation for which a cost-sharing level of only 10% was recommended.

Serious Questions Must Be Raised Regarding the Proposed Expenditures

In view of the fact that the waterway users would be able to pay such a small

portion of the capital expenditures which the Corps would have us believe will be required for rehabilitation and modernization of the inland waterway system, serious questions must be raised regarding the real need and worth of such expenditures. It is clear that such expenditures would be far less cost-effective than expenditures for other water resource project purposes where the users would pay at least 35% and up to 100% for municipal and industrial water supply. Since inland waterway expenditures in the past have given rise to distortions in transportation investments and created excess transportation capacity of limited usefulness, why should these problems be compounded? While S. 1739 would authorize a 313 million dollar modernization of Gallipolis Locks and Dam to accommodate an estimated additional 15 million tons of traffic annually by the year 1990, a study by CONSAD Research Corp. for the Corps' Pittsburgh District estimated an expenditure of only 8½ million dollars for railroad right-of-way improvements would be required for the existing railroad system to handle nearly all (some 94% or 81.6 million tons annually) of the total traffic moving on the Upper Ohio River waterway system. The absurdity of spending some 210 times more than necessary per ton of additional capacity is compounded by the reality that the so-called demand for additional waterway capacity is due largely to the fact that the Federal taxpayer continues to subsidize the inland waterway system. While inland waterway projects have never been evaluated on the basis of whether they would "provide a needed transportation service with advantage to the nation's transportation system", this is the planning objective which was approved on May 15, 1962 by the President for use by the Federal agencies. (See Senate Document #97, 87th Congress.)

With its Planning Objective, the Corps Claims It Can Forget
About Intermodal Competition, Benefit-Cost Ratios and User Fees

As stated in Part I Section F of my statement, academicians have concluded: "the evaluation process (used by the Corps for inland waterway projects), rather than a guide to decision making, has simply become an undesirable obstacle to be overcome by whatever means necessary." This attitude probably results from the Corps' planning objective for inland waterway projects which is (as presented by Maj. Gen. John W. Morris in April 1975) that "this nation needs and deserves a first-rate water transportation system." Gen. Morris further stated that with this objective:

"we don't need to debate the competition between the railroads and the waterways --- we don't need --- (the) --- benefit-cost analysis --- we can even set aside the issue of user fees ---."

Perhaps Gen. Morris could have added that with this objective we also do not need to obtain the views of the users regarding the extent to which they need, want and would benefit from the proposed waterway expenditures. Apparently the Corps' plan for avoiding the evaluation process for the 25 to 30 billion dollar modernization and rehabilitation program it considers will be needed is to have the authority to "construct and operate and maintain such new improvements and rehabilitations and modifications of existing improvements on the inland waterway system as the Secretary (of the Army) determines to be reasonable and desirable for commercial waterway transportation." (See Section 9(a) of S. 1554.)

Evidence that the Corps' Evaluations Do Not Present the Users' Views

As explained in my statement, not only are waterway projects not evaluated from the public viewpoint regarding economic worth and need (i.e. in relation to the total transportation system), the Corps' evaluations, while supposedly made from the users' viewpoint, do not even come close to representing the users' viewpoint. A good example of this situation is presented in the article on "River dredging hits snag among grain, coal men" presented in the (New Orleans) Times-Picayune newspaper for Sunday August 29, 1982, which is included as Attachment B. The primary beneficiaries of this \$525 million project to deepen the Mississippi River below Baton Rouge are quoted as saying they not only do not need nor want the project, but that the Corps' estimates of the benefits they would receive are "totally absurd". While the Corps estimated the grain industry would save about \$750 million per year in reduced shipping costs, a grain industry

transportation official estimates the savings for the entire grain industry to be only \$10 to \$20 million per year. A former Baton Rouge port attorney, who is considered by many port officials to be one of the leading experts on the Mississippi River below Baton Rouge, has said: "It is not only a waste of money, but an undertaking for which there is no present material need and one which will produce no future benefits of consequence." It is doubtful the users could pay even 20% of the estimated annual maintenance cost of \$178 million. Not only has the Corps recommended this project, it is included in H.R. 3678 for authorization and in H.R. 3958, which the House has passed, for funding.

The Views of the Waterway Users Are Needed to Provide a
Market Test of the Desirability of All Future Investments

The Committee clearly recognizes the importance of permitting the waterway users to make the final decision regarding the desirability of those inland waterway expenditures which they would be required to finance. (Title V of S. 1739 provides that those expenditures which the users would be required to finance, consisting of any expenditures in excess to \$646 million annually, will not be made unless approved by a Board representing the users.) As stated by the Asst. Secy. of the Army for Civil Works at the Subcommittee hearing on June 15, 1983, "When non-Federal sponsors (agree to) pay part of the construction cost of Federal projects --- there is --- a powerful market test of the project's merits ---."

If it is important to obtain the users' views of the desirability of all expenditures, if any, in excess of an arbitrary level of \$646 million (which Sen. Simpson stated, in Committee Report No. 98-340, had been raised from \$500 million to \$600 million and then to \$646 million "in the matter of just a few weeks"), then it is equally important (if not more so) to also have a market test of the desirability of the expenditures up to \$646 million. Surely the Federal taxpayers are also entitled to a meaningful determination of the need and worth of the expenditures to be made with their tax dollars. It is generally agreed, and the Asst. Secy. of the Army for Civil Works so stated at the Subcommittee hearing on July 18, 1983, that a "market test of Government waterway expenditures" --- (is needed to prevent) --- "a waste of taxpayers' money --- and misallocation of resources ---." While the Asst. Secy. did not admit that the Corps' evaluations are of little value, others have. For example, Penn. State Univ. Professors Joseph L. Carroll and Srikanth Rao in their 1978 paper on case studies of the Tenn-Tom waterway and L&D #26 concluded:

"If the two case studies presented herein are more or less typical of the feasibility studies being produced by the Corps, and we believe they may be, then the public would be better off without them. Thus if for political reasons no meaningful reform of navigation project evaluation practices and procedures is possible, we suggest eliminating the requirement for economic feasibility studies altogether."

In order to provide the Federal taxpayers with greater assurance that their money will be invested wisely, it is most important to obtain the views of the waterway users regarding the desirability of all future inland waterway investments including the 13 new projects, having a total Federal cost of nearly \$1.1 billion, which would be authorized in Title V of S. 1739.

A Simple Questionnaire is Proposed for Obtaining the
User's Views on Project Desirability and Alternatives

In addition to establishing the desirability of inland waterway expenditures, the users' views are important for suggesting and evaluating construction, and non-construction, alternatives. A suggested list of questions to be included in a simple questionnaire that would be sent to the prospective users for obtaining this information is presented in Part III Section B of my statement. The questionnaire is intended to obtain the users' views regarding the extent to which they need, want, would use, and would benefit from a proposed waterway expenditure. The prospective users would also be asked to indicate whether they would contribute (up to 50% of the annual benefits they

claim they would receive from the expenditure) towards helping to pay for the expenditure; and, if not, what other percentage they would agree to contribute.

Such a questionnaire could provide the information needed by Congress rather quickly and with little expense. Based on the Times-Picayune article enclosed as Attachment B, one can assume truthful information would be obtained from the users particularly when faced with the possibility of having to help pay for the waterway expenditure in proportion to their anticipated benefits. The information from such a questionnaire would serve as a good preliminary market test and permit either an authorization decision to be made or suggest the need to study less expensive and more cost-effective alternatives. Since an important purpose of the questionnaire is to serve as a check on or replacement for the Corps' economic evaluation (and could bring to light information which the Corps may not have wanted to surface), my statement stresses the importance of not having the Corps involved in preparing, mailing, or summarizing the information from the questionnaire. The only exception being that the Chief of Engineers should be requested to furnish (for each waterway project not yet authorized, including the 13 proposed in S. 1739) a mailing address listing of the current and prospective users in the various waterway segments where the projects would be located.

Recommendations For: Federal Subsidy Level With Capital Expenditures, Project Authorization and Funding Criteria, and A Ton-Mile Fee to Recover 50% of O&M Costs

Rather than have a two-tiered Federal subsidy level as in Title V of S. 1739 (with a 100% subsidy for the 1st portion of the annual expenditures and a 0% subsidy for the remaining portion), it is recommended that the level of Federal subsidy be 50% for the entire annual expenditure. The important advantage of this change is the partial market test (consisting of the users' willingness to pay 50% of the costs) would provide the Federal taxpayers with greater assurance that their money will be invested wisely. This could represent a true compromise between the "business as usual" approach (with an over 90% Federal subsidy level) and the "no more Federal subsidy" approach. This was not only the subsidy level recommended by President Franklin D. Roosevelt in connection with the first study to tax waterborne commerce a little over 44 years ago, it is also the level currently recommended in the National Governors' Association statement, for the record of the Subcommittee hearing on June 21, 1983, which read as follows:

"If instituted, new shallow-draft user charges should be sufficient to recover 50 percent of the costs of construction, rehabilitation or replacement of existing and new navigation projects and structures on the existing system. The charge should be collected from the users of the constructed facilities over the useful life of the facility."

It is recommended that congressional authorization of future capital expenditures on the inland waterway system, including the 13 new projects proposed in S. 1739, be based on the finding, from the suggested project appraisal questionnaires to the users, that the total annual amount the users and other beneficiaries are willing to pay towards financing the expenditure is equal to a least 50% of the average annual cost of construction with interest plus 100% of the annual maintenance cost. It is further recommended that Federal funding of projects which meet this authorization requirement be based upon the users and beneficiaries, including local and state governmental bodies, being able to assemble a financing package which would pay 20% of the cost of construction during the construction period and provide reasonable assurance to bonding institutions that the users and beneficiaries upon completion of the project could make annual payments to cover the remaining 50% portion of the cost of construction, with interest, plus the annual maintenance cost.

Two important considerations are missing from the administration's proposal to collect 70% of the operation and maintenance costs with a systemwide ton-mile fee, which for 1984 would be 1.1 mills and raise about \$213 million. These are the need for phasing-in of the ton-mile fee and for giving the users the responsibility for making the decisions regarding operation and maintenance expenditures. It is recommended that a systemwide ton-mile fee be phased-in over a three year period so as to return to the

U. S. Treasury 50% of the total operation and maintenance costs. The ton-mile fee would be adjusted to recover 25% of the systemwide O&M costs the 1st year, 40% the 2nd year and 50% the 3rd and succeeding years. Thru the proposed Inland Waterways Users Board, the users would have the responsibility for making the final decisions regarding O&M expenditures. Once the shippers start to pay for a portion of the O&M costs, it is recommended that the current fuel tax being paid by the bargelines be terminated.

Recommended Changes in the Responsibilities For, and In Selecting
the Members of, the Proposed Inland Waterways Users Board

The concept of an Inland Waterways Users Board in S. 1739 is excellent, but the role it would have in the decision making process regarding inland waterway expenditures is so minimal that it needs to be greatly expanded. As stated by Senator Scaucus in Committee Report No. 98-340 to accompany S. 1739: "In reality, it appears that the authority of the Users Board exists only on paper." It is recommended that each member of the Users Board be selected by a waterway segment user board rather than by the Secretary of the Army. The total number of members, up to 24 (one for each of the 24 segments listed in Public Law 95-502), being dependent upon how many waterway segment boards are formed. The members of each waterway segment user board would consist of all the commercial users of that segment. Each member would have a voice in the decision making for that segment in proportion to, say, the ton-miles of traffic shipped on that segment the prior year. Each waterway segment user board would submit to the national Users Board the level of O&M expenditures desired for the coming year. The actual level of O&M expenditures for each segment would be determined by the national Users Board with each member voting in proportion to the ton-miles for the waterway segment he represents. If the ratio of ton-miles generated on a segment to the O&M costs for that segment falls below some agreed upon level, the O&M for that segment could be discontinued. An individual shipper or group of shippers, with or without state or local help, could continue to operate and maintain a discontinued segment.

Proposals for capital expenditures should come from the segment user boards which would be required to pay for 50% of the cost of the studies needed. It is recommended that the remaining 50% be obtained from the Inland Waterways Trust Fund. Contracting for such studies could be the responsibility of the national Users Board which would decide (unless it was specified by the segment user board) whether the studies are contracted with the Corps or outside engineering firms. The segment user boards would also be responsible for developing information from the users regarding their need for, anticipated benefits from, and willingness to help pay for the proposed capital improvement. They would also take the lead in assembling a financing package if the improvement is authorized by Congress. It is also recommended that the national Users Board employ a small staff and obtain funds for this purpose from the Inland Waterways Trust Fund.

An Analysis of the Dept. of the Army's Cost Recovery Recommendations

Part II of my statement analyzes the Dept. of the Army's inland waterway cost recovery proposals in S. 1554 as well as the statements presented by the Asst. Secy. of the Army for Civil Works at the Subcommittee hearings in 1983. I consider the proposal to recover 70% of the systemwide operation and maintenance costs to be unacceptable largely because it fails to give the waterway users the responsibility for making the decisions regarding O&M expenditures. Likewise a major objection to the (even less acceptable, from my viewpoint,) proposal to recover 70% of the future capital expenditures with a segment-specific user fee is that the Secretary of the Army would be authorized "to study, plan, design, construct, and operate and maintain such new improvements and rehabilitations and modifications of existing improvements on the inland waterway system as the Secretary determines to be reasonable and desirable for commercial waterway transportation." (See Section 9 (a) in S. 1554.) Obviously it is the waterway users who should determine which capital expenditures are reasonable and desirable for commercial waterway transportation if they are expected to pay for 70% of these expenditures.

The proposal to build capital improvements without any prior market test or eval-

uation by the prospective users, and then (cross your fingers with the hope to) recover 70% of the project costs "from the users as benefits are received over the economic life of the project" (as proposed by the Asst. Secy. at the July 18, 1983 hearing) is simply a sham! Furthermore, any suggestion that imposing a user charge "as the benefits are received" will provide a market test to guarantee sound projects is simply absurd. The only market test which user charges will provide is to reveal, some 15 or 20 or more years after construction, whether the project was worthwhile. If by then the anticipated benefits are not realized, the users will simply never be able to pay and (as has happened with the St. Lawrence Seaway project) Congress will be pressured to eliminate or greatly reduce the charges in order to ensure continued use of the project. The statement by the Asst. Secy. at the July 18th hearing that the Section 205 study "showed that all waterways can remain open with the form of cost recovery we are proposing" is clearly misleading, if not incorrect, since the 205 study did not include the system modernization expenditures the Corps has in mind.

At the June 15, 1983 hearing, the Asst. Secy. stressed the importance with water resource projects of "capitalizing on the capabilities of the project beneficiaries" to weed out "the less feasible projects" and "assemble financing packages" and also that "a powerful market test of the project's merits" is provided "when non-federal sponsors pay a part of the construction costs of Federal projects." One month later when the Asst. Secy. testified at the July 18th hearing, it was clear that the Dept. of the Army wants no part of these suggestions when it comes to inland waterway projects. The reason is obvious from the Asst. Secy.'s opening remarks at the July 18th hearing that "it is" --- "critical" --- "for moving ahead on a" --- "systematic water resource investment program" --- "to assure modern inland waterways ---." The Corps' multi-billion dollar modernization plans presented in their National Waterways Study could not go forward if a "powerful market test" were to be applied or if the project beneficiaries had the opportunity to "weed out the less feasible projects." Regarding the Corps' National Waterways Study, the Office of Management and Budget returned the study report to the Asst. Secy. in August 1983 expressing concern over a number of things including the effect of cost recovery on future capital investment requirements and the criteria for identifying the need for lock replacement. As of Jan. 1984 OMB had not given approval for distribution of the Corps' study report.

Additional Information Presented in the Statement

Additional information on the serious deficiencies in the evaluation procedures for inland waterway projects is presented in Part I and in Attachment A. The main purpose of this information is to show how critical it is for Congress to obtain a re-evaluation of all unauthorized projects (including the 13 new projects proposed in S. 1739) by obtaining the views of the direct beneficiaries. The statement also indicates how this problem has been compounded by the fact that Congress and the public are being deceived regarding both the basis for evaluating the project benefits and the significance of the resulting B/C ratio. An additional deception being perpetuated is that the law (specifically Section 7a in Public Law 89-670) requires the executive branch to confine its evaluation of transportation benefits to only those received by the waterway users and thereby preventing a determination of whether a project is in the national interest. Part III Section B presents an example of the importance (in the case of I&D #26) of obtaining the views of the waterway users regarding less expensive and more cost-effective alternatives. Attachment C summarizes the controversial engineering issues regarding I&D #26 by listing 12 of the more critical engineering positions or assumptions which were challenged by professional engineers as being untenable. Also presented in Part I is a discussion of the past, and apparently proposed future, efforts to obtain system modernization without authorization.

Sincerely,

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GEA/ga

Statement On

Title V - Inland Navigation

S. 1739 "Water Resources Development Act of 1983"

For

Record of Jan. 24-25, 1984

Oversight Hearings

Held By

Subcommittee on Water Resources

U. S. Senate Committee on

Environment and Public Works

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PART I - Background Information Regarding the Problem of Ill-Advised Inland Waterway Expenditures and the Major Deficiencies in the Project Evaluation Procedures

Senator Abdnor in his opening remarks at the July 18, 1983 Subcommittee hearings confined his definition of the problem (regarding inland waterways policies and projects) as being merely how to finance the \$4.5 billion in inland waterway expenditures which he has been led to believe will be needed over the next 5 fiscal years. The writer takes the position that an equally important, or perhaps even more important, problem is how to determine what portion of this proposed expenditure is really needed and even comes close to being economically justified from the national viewpoint.

As stated by Mr. Gianelli at this hearing: "we cannot continue past practices" regarding inland waterway expenditures which have "led to a waste of taxpayers' money" and "mis-allocation of resources ---". Ill-advised inland waterway projects have also given rise to distortions in transportation investments, created excess transportation capacity of limited usefulness, adversely affected various shippers and alternative modes of transportation, prevented efficient utilization and conservation of our nation's resources, and often had an adverse environmental impact. As stated by the Chairman of the National Water Commission in 1973:

"The economics of some waterway projects are so distorted that if you took the Federal money spent for the waterway project and set up a trust fund, you could ship all the anticipated waterway traffic by rail at no cost to the shipper."

The serious deficiencies in the procedures used to evaluate the worth of inland waterway projects have often been stated. The 1973 report of the National Water Commission stated: "navigation projects are still undertaken that could not pass the test of an unbiased economic evaluation" and the Corps' "estimate of savings to shippers is of little value in determining whether a proposed waterway should be built." Two academicians who have made a thorough analysis of various controversial inland waterway projects have suggested: "eliminating the requirement for economic feasibility studies altogether" for they believe "the public would be better off without them."

Based on a review of the printed reports on the hearings held by the Subcommittee in 1983, the writer has concluded that additional background information for the Subcommittee is needed regarding the problem of avoiding ill-advised inland waterway projects and the serious deficiencies in the waterway project evaluation procedures. Part I of this statement has been prepared for this purpose.

A. Ill-Advised Projects Have Resulted From Inadequate Evaluations By the Executive Branch and Not From the Lack of a Market Test of Proposed Waterway Expenditures

At the July 18, 1983 hearing, Mr. Gianelli stated: "A lack of any market test of Government waterway fund expenditures has led to a waste of taxpayers money" --- "and misallocation of resources ---". While a real market test of the worth of a waterway project prior to authorization considerations would undoubtedly have prevented ill-advised waterway projects from going forward, it is misleading and incorrect to suggest it was the absence of a market test which "led" to such projects. It should be quite clear that ill-advised projects resulted from the improper project evaluations by the Executive branch.

While one would not expect Mr. Gianelli to point a finger at the Dept. of the Army for recommending waterway expenditures which led to the waste of taxpayers money, he is saying, in effect, that future waterway expenditures (which are recommended by the Dept. of the Army) could also be a waste of money unless there is a market test. If Congress is to be criticized at all for authorizing and funding ill-advised waterway projects, it is only for having too much faith in the reports and recommendations by the Corps of Engineers. The extent of this faith is shown by the following statements in the April 12,

1983 news release from the Committee regarding the April 22, 1983 Subcommittee hearings: "These hearings will review each of the projects that has been evaluated fully by the Corps of Engineers ---". "I believe we can assume the Corps knows what it is doing."

While the Corps knows what it is doing, perhaps few in Congress know, particularly with regards to its evaluations of inland waterway projects. In contrast to this faith, there are the conclusions of the House Subcommittee which made a detailed analysis in 1950 & 51 of the Corps' Tenn-Tom waterway study (and concluded the B/C ratio should be 0.27 to 1 rather than the Corps' 1.13 to 1) and the Corps' Missouri River navigation study (and concluded it was hardly worthy of credence). Perhaps one's faith is inversely proportional to one's knowledge of the projects being recommended.

B. Projects Are Never Evaluated In Relation To The Total Transportation System

Inland waterway projects have probably never been evaluated by the Executive branch on the basis of whether they are needed and of advantage with reference to the nation's total transportation system. This has resulted in the creation of excess total transportation capacity of limited usefulness. In 1967 the Governor of Pennsylvania put a stop to the proposed 120 mile, one billion dollar Lake Erie - Ohio River Canal project by withholding local cooperation for the reason that the existing transportation facilities in the area were more than adequate to meet the needs for transportation.

The issue of excess transportation capacity must be considered by Congress in its review of costly inland waterway capacity expansion expenditures, particularly since the so-called demand for added capacity is due almost entirely to the fact that the inland waterway system continues to be almost totally subsidized by the U. S. taxpayers. While Section 505 (10) of S.1739 would authorize a \$313 million project to increase the locking capacity at one of the dams on the Ohio River, a Study by the CONRAD Research Corp. for the Corps' Pittsburgh District determined that an expenditure of only \$84 million for railroad right-of-way improvements would be required for the existing railroad system to handle nearly all (some 94% or 81.6 million tons annually) of the total traffic moving on the Upper Ohio River waterway system. Section 507 (e) (1) would authorize a \$245 million second lock at IAD #26 which would permit an additional 454 million tons of traffic annually by the year 2040. With regards to this project, it is important to consider the information, in the 1975 U.S.D.O.F. report on IAD #26, that the estimated existing excess capacity for the north-south rail network which competes for traffic to the Gulf ports to be 260 and 485 million tons annually for the low and optimal estimates respectively.

C. Project Evaluations Are Not Made From the Public Viewpoint & Thus Distort the True Worth

Probably the most serious evaluation deficiency is that the analysis of benefits and project worth is made solely from the limited viewpoint of the direct beneficiaries rather than from the comprehensive public (i.e. national) viewpoint. The excellent explanation of this problem presented by Sen. Moynihan during the Sept. 10, 1980 discussion of the Tenn-Tom waterway project on the Senate floor was as follows:

"(the) planning process" for inland waterway projects is in woeful disorder" (since) --- "it is economic bad sense" to calculate (only) the "savings to shippers" --- "because what is of savings to a shipper may be a loss to a surface transportation system as well" --- "We have to ask (i.e. determine) the (net) benefits to transportation not to one mode." (Words in parathensis. have been added.)

Perhaps few in Congress fully understand this deficiency and even fewer are aware of the extent to which it distorts the project worth. On the one occasion, in the mid 60s, when the Corps obtained (from a consulting firm) an evaluation of an inland waterway project (the proposed Lake Erie - Ohio River Canal) from the national viewpoint in addition to the usual shippers viewpoint, the transportation rate savings to the shippers were found to be 13.7 times the savings to the nation in the cost of providing transportation.

The project was subsequently recommended to Congress solely on the basis of rate savings.

While Public Law 95-502 specifically directed the Upper Mississippi River Basin Commission in its Master Plan Study to evaluate the "benefits to the Nation" from expanded navigation capacity, only the benefits to the shippers were determined and the 2nd look at LAD #26 was recommended on the basis of this determination. It is also important to point out that in the Master Plan Study, the Great Lakes Navigation Season Extension study and even in the May 1976 reanalysis of the Red River Waterway project the Corps determined the loss of railroad revenue as a result of the waterway improvement. However, in none of these studies was the loss of revenue to the alternative transportation mode used to obtain the net benefits to transportation which Sen. Moynihan, economists, academicians and others have stressed is needed.

Over the years, the Corps has given many different excuses for continuing to confine its analysis of inland waterway projects from the limited viewpoint of the direct beneficiaries. The current excuse, as presented by Sen. Moynihan Sept. 10, 1980 on the floor of the Senate, is that it is required to do so by law (specifically Section 7a of the D.O.T. Act, Public Law 89-670). A discussion of this issue is given in items #8 thru #13 of Attachment A. This discussion refers to the 1979 opinion of the U. S. Justice Dept. that Section 7a is silent as to the method for determining other benefits (than the savings to shippers) such as the benefits (to the nation) mentioned in Sen. Doc. 97, 87th Congress. The discussion of this issue in the June 1973 report of the National Water Commission included: "Unfortunately, and in the opinion of the Commission unnecessarily, Section 7 has been interpreted as requiring the executive branch to confine its analysis to a determination of the first figure (rate savings to shippers). The law does not prevent the executive branch from applying any test of desirability that it considers essential to determining whether or not a project is in the national interest."

D. Corps Estimates of Benefits to Users Greatly Exceed the Users Estimates

Not only do the waterway project evaluations fail to measure the benefits and project worth from the public (i.e. national) viewpoint, the estimates of savings to the direct beneficiaries tends to greatly exceed the benefits anticipated by the users. An excellent example of this situation is presented in the article on "River dredging hits snag among grain, coal men" by David A. Simpson in the New Orleans Times-Picayune newspaper for Sunday August 29, 1982 which is inclosed as Attachment B with this statement. As stated in this article, a grain transportation official said the Corps' benefit calculations for the proposed \$525 million project to deepen the Mississippi River from the Gulf of Mexico to Baton Rouge are "totally absurd as far as the grain business goes." While the Corps estimated the project would save the grain industry about \$750 million per year in reduced shipping costs, the grain official estimated the savings for the entire grain industry to be \$10 million to \$20 million per year. A former Baton Rouge port attorney, considered by many to be one of the leading experts on the Mississippi River below Baton Rouge, said: "It is not only a waste of money, but an undertaking for which there is no present material need and one which will produce no future benefits of consequence."

It is to be noted that not only did the Corps recommend this 525 million dollar project, which the beneficiaries of about half of the Corps' estimated benefits do not want nor consider to be economically justified, it is one of the projects included in H.R. 3678 for authorization and in H.R. 3958, which the House passed, for funding. The important question is: why didn't the Corps check with the potential beneficiaries before recommending this project to Congress? The answer is simply that the Corps usually chooses to develop its own estimates of project need and worth. This policy undoubtedly makes it easier to obtain a favorable B/C ratio.

While this example of the great difference in the estimated benefits to the direct beneficiaries is for a deep draft waterway project, it is clear that a similar situation exists with shallow draft inland waterway projects. The inland waterway traffic project-

ions currently used by the Corps were prepared several years ago for the National Waterways Study and therefore do not take into consideration the subsequent reduction in national economic growth, the greatly reduced grain projection or the disappointing growth in export coal. Furthermore these traffic projections were also based on the assumption of an unconstrained inland waterway system with respect to growth of waterway traffic and on the current very low level of cost sharing or recovery.

A major source of error when evaluating inland waterway expenditures to divert more traffic to the waterways results from the Corps policy of not attempting to determine from the expected shippers and receivers of the diverted traffic their most likely transportation alternative in the absence of the waterway project. The Corps routinely assumes (yet admits the assumption is not correct) that, in the absence of the growth in waterway traffic, the same commodities and amount would be shipped from the same origin to the same destination as with the anticipated water movement but via an alternative mode of transportation. An example of the error which results from this assumption is with the current movement of ethylene glycol by barge from origins in Louisiana to Omaha. If the most likely origin for the rail transportation alternative is not considered, the calculated rate savings to the receivers will be too high by the excessive amount of \$30 per ton.

An additional major source of error for lock addition or replacement projects is in the Corps' calculation of the savings from a reduction in lockage delays. The unanswered question regarding this calculation is to what extent will the waterway users be willing to incur lockage delays from inadequate lock capacity. There is even disagreement within the Corps as to the proper method of calculating delay savings. For example, in Table V-18 on page 57 of the UMRBC Master Plan report dated Jan. 1, 1982 (see Sec. 507 (b) (1) in S. 1759), the estimated savings to the waterway users for the various navigation capacity expansion scenarios considered for the Upper Mississippi River are 3.7 to 4.5 times greater as determined by the so-called "General Equilibrium Model" developed by the Corps' St. Louis District than determined from the so-called "Percent of Capacity Model" developed by the Corps' North Central Division. This big difference is due mostly to differences in calculating the savings from a reduction in lockage delays.

E. An Incorrect Understanding of the Corps' B/C Ratio Results From Misleading Statements by the Corps as to What the Benefits Are Based On

Congress and the public continue to be misled by statements (such as were made on the Floor of the House during the discussion of H.R. 9958 on Oct. 5 and 6, 1983) that with water resource projects a benefit-cost ratio of, say, 12 to 1 means for every dollar invested in the project the taxpayers (i.e. the public) get back 12 dollars. This, of course, is absolutely not true for inland waterway projects. The benefits in the B/C ratio are not the savings to the public (in the cost of providing the transportation service) but are merely the estimated "savings to shippers", which Sen. Moynihan understands, and the National Water Commission Report of June 1973 stated, "is of little value in determining whether a proposed waterway should be built." Based on this fact, can one assume the Corps' favorable B/C ratio at least means the annual savings to the users would exceed the annual project cost and the users could pay for the project from the benefits they would receive? The answer is clearly "no" since the discussion in Section D pointed out why the actual benefits to the users may be considerably less than the Corps' estimates.

An additional important point is that the Corps' estimate of benefits to the users is based on the assumption that the users will not be required to pay for the cost of the project. Since the net benefits to the users become less if they pay a portion of the project cost, the very important, yet here-to-fore unanswered, question is whether inland waterway projects are feasible from the users viewpoint if they were required to pay for the project costs. (From the Times-Picayune newspaper article in Attachment B, it is clear that the prospective users are in the best position to provide a meaningful answer to this question.) While this type of determination is not made by the Corps, sufficient information (on the extent to which a specific level of user charges would reduce the benefits to the users) was developed in the studies for the UMRBC Master Plan Report to make this determination. Based on this information, it was determined by the writer that none of the

major navigation capacity expansion scenarios would be feasible from the users viewpoint if they were required to pay the cost of increasing the capacity.

Undoubtedly the primary reason why Congress and the public are misled into believing the Corps' estimated "navigation benefits" or "transportation benefits" from inland waterway projects represent real savings (to the nation) in the cost of (the resources required to provide) the transportation service is because of misleading statements by the Corps. The important question is simply whether the Corps' estimated benefits are based on transportation cost savings or merely on savings in transportation rates. As explained in Section C, the Corps only measures rate savings except on one occasion when both were measured and the rate savings were found to be 13.7 times the cost savings. The Corps continues to make statements (in the June 1980 Draft report on the economics of the Missouri River Navigation project, for example) like "navigation benefits based on cost savings" and "transportation savings are based on the costs for each commodity movement" which clearly misled the reader into believing that the project benefits are based on transportation cost savings. When pressed on this matter, the Corps indicates what is meant by these statements is costs "to the shipper" (i.e. rates or charges). In his July 11, 1980 comments on the June 1980 Draft Report, the writer made several suggested changes including replacing the word "cost" by "rate" or "charge" and adding the words "to the shipper" after the word "savings". While some of the writer's suggested changes were incorporated into the final report of Dec. 1980, neither of the suggested changes mentioned above were made. As stated by the writer in his Feb. 6, 1981 letter to the Corps, one is forced to conclude: "it is the desire (of the Corps) to intentionally mislead and deceive the reader."

One of the most flagrant examples of deception by the Corps regarding the benefits it evaluates for inland waterway projects was presented as follows on page 262 in Part 1, Vol. 3 of the 1951 Annual Report of the Chief of Engineers, U. S. Army: "For every ton of freight moved on an improved waterway a savings in transportation costs is returned to the Nation as a general benefit." (The prior sentence on page 262 was: "The importance of the programmed system of inland waterways is indicated by the vast annual increase in tonnage and variety of commodity that move over these waterways" What the tonnage increase really shows is that shippers take full advantage of shifting a significant portion of their transportation costs onto the Federal taxpayer.)

Every time it is said, as Mr. Gianelli did in his July 18, 1983 hearing statement, that "Water transportation provides low cost --- transit of heavy and/or bulk commodities", the words "to the shippers" should be added. (Since the Federal taxpayers pay for over 90% of the cost of constructing, operating and maintaining the inland system, it should be a big bargain to the users.) Mr. Gianelli also said: "Collectively, the Nation's waterways produce benefits far in excess of their costs." To be a correct statement the wording should be "--- benefits to the users, as determined by the Corps, ---". In view of the National Governor's Association's great concern that "the maximum cost recovery level (for the inland waterway system) should not exceed 25 percent of the costs of operation and maintenance", perhaps the actual benefits to the users are far less than the Corps' estimates.

F. The Evaluation Process Has Simply Become an Undesirable Obstacle To Be Overcome By Whatever Means Necessary

Penn. State Univ. Professors Joseph L. Carroll and S. Rao in their paper on "Economics of Public Investment in Inland Navigation: Unanswered Questions" presented at the Dec. 29, 1977 meeting of the American Economic Association (see Transportation Journal, Vol. 17, No. 3, Spring 1977, pp 27-54) concluded: "--- the evaluation process (used by the Corps for navigation projects), rather than a guide to decision making, has simply become an undesirable obstacle to be overcome by whatever means necessary." The writer is in complete agreement with this conclusion and is thoroughly familiar with the facts which supported the following headline in a two part special report in one of the Chicago newspapers on Feb. 22 1963: "Charge Army 'Faked' Figures on Indiana Harbor Report". It is important to point out that this charge was never refuted by the Corps.

The New York Times editorial of Dec. 4, 1978 on "The Engineering of Deceit", regarding the Corps' evaluation of the Tenn-Tom navigation project, stated: "--- the Corps again stands accused of deception ---". The editorial made reference to President F.D.R.'s former Secretary of Interior's "rage against the trickery by which the Corps justified its projects" and his statement in the Forward to Harvard Prof. Maass' 1950 book "Muddy Waters": "No more lawless or irresponsible Federal group (than the Army Corps of Engineers) has ever attempted to operate in the United States, either outside of or within the law".

Regarding the Tenn-Tom project, Prof. J. L. Carroll in his re-examination of the project (see Transportation Journal, Vol.22, No.2, 1982 pp 5-20) concluded "the nation will be fortunate indeed to capture as much as 20 cents for every dollar invested", also "The Corps' navigation benefit estimates appear to be overstated by a factor of ten or so because of the phantom freight in the traffic base and because of the faulty criteria used to calculate benefits."

It is clear from statements made by the former Chief of Engineers, Maj. Gen. John W. Morris, that the Corps would rather not be bothered with having to justify the economics of inland waterway expenditures particularly those for the purpose of modernizing the inland waterway system. The following remarks were made by Gen. Morris during the panel sessions on "Water Transportation & Commerce" at the National Conference on Water held in April 1975:

"--- if we can get that point settled (that the goal for water transportation planning should be that this nation needs and deserves a first-rate water transportation system) then the rest is pretty easy because we don't need to drag the water resources program through this endless iteration and reiteration of annual justification of benefit-cost analysis; we can get away from the discount rate consideration; we can even set aside the issue of user fees ---."

The most effective way in which the Corps has overcome the evaluation process has simply been to not make an evaluation of (nor seek authorization for) certain projects. The Corps' multi-billion dollar modernization of the inland waterway system began in about 1953 with the progressive replacement of the Ohio River locks and dams, which was never authorized by Congress and was subsequently found to be an illegal use of the R & H Act of March 3, 1909. Additional waterway system modernization without authorization has included building 1200 ft. locks when only 600 ft. locks were authorized and the obtaining of a 2 to 3 ft. greater than authorized channel depth by excessive contraction of the channel with training structures and/or by excessive overdepth dredging and by higher pool levels with new dams. The Corps' apparent plan for avoiding any evaluation for the 25 to 30 billion dollar modernization and rehabilitation program it considers will be needed in the future is to maintain a high level of waterway expenditures (such as the \$646 million annual level provided for in Section 501 of S. 1739) and have the complete freedom to construct any improvement it (alone) "determines to be reasonable and desirable for commercial waterway transportation." (see Section 9a in S. 1554)

PART II - An Analysis of the Dept. of the Army's Cost Recovery Recommendations in Relation to Its Inland Waterway Policy Objective

It is somewhat ironical that the Dept of the Army is the agency which has presented (and undoubtedly took the lead in developing) the Administration's legislative proposal for the recovery of inland waterway costs from the users. A little over 44 years ago the War Dept. in conjunction with the Treasury Dept., the Dept. of Commerce, and the Bureau of the Budget completed what is considered to be the first study on the collection of waterway user charges. Their report was submitted on Nov. 25, 1939 in response to Pres. Franklin D. Roosevelt's request "to study the whole subject of taxation upon waterborne commerce and that a plan be evolved which would return at least half of the Federal cost of maintaining harbors, improving waterways, and the requisite aids to navigation." While two alternative plans for a tonnage tax were submitted, the report concluded that any such plan would have

an adverse effect on the volume of water-borne commerce and would seriously disturb the water transportation industry! The Corps was undoubtedly also concerned about the effect of user charges on its grandiose plans for expanding the inland waterway system. It is important to note that back in 1939 the Corps also completed its report recommending the Tenn-Tom waterway project.

An important item of background information is the fact that Congress in the Rivers and Harbors Act of June 20, 1920 included the provision that every survey report on a navigation project should contain a statement recommending what portion of the project should be paid for by the local beneficiaries and that this should be based on the proportion of their benefits to the national benefits. As stated on page 928 of the 2nd Hoover Commission's June 1955 Task Force Report on Water Resources and Power: "for the past quarter century it (this provision) has been mostly ignored." Except for the one occasion in the mid 60's, the Corps has never determined the benefits to the nation and hence never did make the cost sharing recommendation which Congress requested.

The Corps' inland waterway policy objective is to obtain a "first-rate water transportation system" as stated by Maj. Gen. John W. Morris in April 1975. To accomplish this, the Corps has concluded that future waterway expenditures of 25 to 30 billion dollars will be needed for modernization and rehabilitation. In analyzing the Administration's cost recovery proposals, it is important to determine whether the Corps thinks it would adversely affect its objective. The answer is apparently "no" based on Mr. Gianelli's July 18, 1983 statement which stresses the need "for moving ahead on a --- water resource investment program --- to assure modern inland waterways ---". At first glance, it would seem that the cost recovery proposals would greatly affect the level of future expenditures. However, further analysis indicates this may not be the case for several reasons. First of all, the proposals make no provision for capitalizing on the capabilities of the beneficiaries to weed out the less feasible projects and assemble financing packages. Secondly, the capital cost recovery proposal, which would build now and attempt to collect later from the users, is a sham. At best only about 10% of the cost could probably be recovered and Congress would eventually relieve the users from making any more payments. The proposal for recovering operation and maintenance costs will surely be rejected as being unrealistic. Specifically, it fails to give the waterway users the opportunity of making the decisions regarding operation and maintenance expenditures and of phasing in of the eventual level of recovery.

A. The Administration's Proposal to Build Now and Attempt to Collect 70 % of the Capital Costs Later From the Users is a Sham Unless the Ill-Advised Projects Are Weeded Out

The problem with the administration's "build now and attempt to collect from the users later" approach is indicated in the following Washington Post editorial of Sept. 30, 1981:

"The administration has proposed that user fees be charged to recover the full cost of the federal investment in navigation projects. While that would be an undeniable improvement over the current practice of government-pay-all, many of today's projects are so ill-advised that users will never materialize and the government will still be left with the bill. A better solution would require the potential beneficiaries to share in the up-front costs of building the project. That will quickly sort out the sensible projects from the boondoggles."

Unless the ill-advised projects are weeded out, the government won't be able to collect 100% or even 70% of the project costs. It would be a sham to continue to build inland waterway projects on the basis that 70% of the costs would eventually be collected from the users if, in fact, the projects were so lacking of justification that the users could pay, say, only about 10%. Thus the important question is to what extent would the users be able to repay the capital costs for the inland waterway projects currently being proposed including the 13 which would be authorized in S. 1739?

This very question with reference to all Federal water projects was studied in the early 70's by the Water Resources Council's Interdepartmental Task Force on Cost Sharing. Its August 1973 report on "Cost Sharing for Water Resource Investments" stated: "Present

cost-sharing policies tempt Federal Water project beneficiaries to request projects that they would not be willing to pay for if their own money were involved." As to the ability of the users to repay the Federal costs, the Task Force concluded: "full repayment with interest would probably eliminate for the foreseeable future new major multipurpose water projects with flood control, navigation, and irrigation as principal functions." Besides the 100% level of repayment, the Task Force also considered, for the various water project purposes, the ability of the users to repay at the 50% and 25% levels and concluded:

"Except for navigation, it is the judgement of the Task Force that a minimum non-Federal cost sharing of 25 percent of the direct investment costs of Federal and Federally assisted projects could be met by all purposes."

The written response by the Director of the Water Resources Council, Warren Fairchild (who had served as the Chairman of the Interdepartmental Task Force on Cost Sharing), to the question as to why the beneficiaries of navigation projects could not repay a minimum of 25 percent of future direct investment costs plus the operation and maintenance costs was that this could not be done "without serious disruptions taking place, thereby making it impossible for navigation to remain a viable function."

The Water Resources Council subsequently submitted recommendations on the cost recovery level for each of the various water project purposes (similar to those presented in Sec. 2 of S. 1031 except that navigation was included with a recommended cost recovery level of only 10%). The writer is of the opinion that an important reason why the administration chose not to include any navigation cost sharing proposal in S. 1031 was in order to avoid indicating that only about 10% could be recovered for navigation projects. Had navigation been included in S. 1031, serious questions would undoubtedly have been raised regarding the real worth of navigation projects. Since the economic advisors to Mr. Gianelli are fully aware of the Water Resources Council's cost sharing recommendations, for the Dept. of the Army to recommend a 70% recovery level for capital costs is a sham. Furthermore, Mr. Gianelli's statement on July 18, 1983 that the Section 205 study "showed that all waterways can remain open with the form of cost recovery we are proposing" is simply not true with respect to the capital cost recovery proposal. The Section 205 study was essentially limited to future operation and maintenance expenditures.

B. The Suggestion That User Charges Would Provide a Market Test to Guarantee Sound Projects Is Absurd

The only market test information which the administration's user charge proposal would provide is the extent to which the estimated benefits to the users are, in fact, realized in the future. Information on whether the project was ill-advised would not be available until, say, 15 to 20 years or more after the project had been constructed. Of what value would such information be? About all that would happen is that Congress would be under pressure to reduce the payments by the users so as to assure continued use of the project. This is exactly what happened with the St. Lawrence Seaway project.

An important question raised by Sen. Abdnor at the June 21, 1983 Subcommittee hearing was: "--- since S. 865 provided no non-Federal up-front financing ---, how does it provide any real market test? The same question could be asked of S. 1554 and the answer would be that it does not provide any real market test. A real market test must establish the worth of a waterway project prior to authorization considerations."

C. Capitalizing on the Capabilities of the Beneficiaries to Weed Out the Less Feasible Projects and Assemble Financing Packages Is Most Important for Waterway Expenditures

The writer is in complete agreement with Mr. Gianelli's statement at the June 15, 1983 hearing which stressed the importance of capitalizing on the capabilities of the project beneficiaries to weed out the less feasible projects and assemble financing packages. While his remarks were made specifically with reference to the water resource project purposes included in S. 1031, it is even more important to make use of this approach for inland navigation projects because of the very high percentage of the project costs which are paid for by the Federal taxpayers and the serious deficiencies in the procedures used to establish project need and worth.

The writer also agrees with Mr. Gianelli's further statement: "When non-Federal sponsors pay part of the construction costs of Federal projects, not only are there reduced demands placed on the Federal budget, there is also a powerful market test of the project's merits that substitutes for the --- bureaucratic scrutiny ---." Again this is of even greater importance for navigation projects. Unfortunately, one month later at the July 18, 1983 hearing Mr. Gianelli proposed a totally worthless build now and attempt to collect later approach for the recovery of inland waterway costs. He also obviously wanted no part of the idea of permitting the inland waterway beneficiaries to help weed out projects and assemble financing packages.

PART III - Recommendations For Improving the Cost Effectiveness and For Establishing the Level of Federal Subsidies With Inland Waterway Expenditures

The recommendations, which are subsequently presented in greater detail, provide for a major input by the waterway users in selecting and evaluating the worth of capital expenditures, reduce the cost recovery goal from the 70% level proposed by the administration to a 50% level, provide for a phasing-in of a ton-mile fee to recover the desired level of operation and maintenance costs, give the waterway users the responsibility for selecting the operation and maintenance expenditures desired, expand the responsibilities for the proposed Inland Waterways Users Board, and change the method of selecting the members of the User Board.

A. The Views of the Beneficiaries Are Needed to Review the Feasibility of, And Alternatives For, Proposed Capital Expenditures Including the 13 Projects Which S. 1739 Would Authorize

Congress should not allow any additional capital improvements for the inland waterway system to be authorized without first obtaining the views of the direct beneficiaries on their need for the project, the extent to which they would benefit from the project, and on the various construction and non-construction alternatives. It is important to avoid projects which even the primary beneficiaries do not want nor considered to be needed or economically justified. (See Attachment B where such a situation exists with a \$25 million dollar river deepening project that was recommended by the Corps, included in H.R. 3678 for authorization, and included in H.R. 3958 for funding even though half of the project benefits are 35 to 75 times greater than what the beneficiaries have indicated they would be.) All 13 of the inland waterway projects which would be authorized in S. 1739 (12 in Section 505 and one in Section 507) were evaluated on the basis of the seriously deficient procedures discussed in Part I of this statement.

B. A Simple Questionnaire Is Adequate For Obtaining the Views of The Beneficiaries

To permit Congress to obtain the information needed from the beneficiaries of proposed capital expenditures it is recommended that a fairly simple questionnaire be submitted to all of the anticipated beneficiaries. The information requested should include the following:

- 1) The extent to which the shipper and/or receiver is currently using the waterway segment or specific lock and dam where the capital expenditure would be made. (Commodity being shipped, its origin, destination, and the tons and ton-miles the previous year.)
- 2) The most likely transportation alternative to the shipper and/or receiver for the commodities currently being shipped by barge and for the commodities that would also be shipped by barge on this segment if the anticipated expenditure is made.
- 3) Estimated annual benefits to the shipper and/or receiver as a result of the current waterway movements.
- 4) Comments on the need for the expenditure and the extent to which additional tonnage would be shipped as a result of the expenditure.
- 5) Additional annual savings as a result of the expenditure from current traffic and added traffic which would be realized by the shipper and/or receiver.
- 6) Anticipated annual savings to the barge lines due to a reduction in barge operating costs.

- 7) Would the user agree to contributing up to 50% of the added benefits anticipated, as a result of the proposed expenditure, to help pay for the capital improvement? (If not, what other percentage of the added benefits could be agreed upon?)
- 8) Comments regarding the approximate cost, the advantages, and the disadvantages of the various construction and non-construction alternatives to the proposed capital expenditure. (This should include the alternative selected, those that were considered but not accepted, and those that were not considered by the Corps.)

Such a questionnaire could provide the additional information needed by Congress rather quickly and with little expense. Based on the Times-Picayune newspaper article enclosed as Attachment B, one can assume truthful information would be obtained from the anticipated beneficiaries particularly when faced with the possibility of having to help pay for the improvement in proportion to the anticipated benefits. Such a questionnaire would give the waterway users the greater voice in selecting and evaluating capital expenditures which they have requested. The information obtained from the questionnaire could serve as a rather good preliminary market test and suggest the possibility of a less expensive and more cost effective alternative. The writer has an open mind as to what agency or group should prepare, mail, review, and summarize the information from such a questionnaire other than to suggest this not be accomplished by the Corps. An important purpose of the questionnaire is to serve as a check or second opinion regarding the Corps' evaluation and the anticipated users would be much more likely to present their views if the Corps was not involved with the questionnaire. The only exception being that the Chief of Engineers should be directed to furnish a list, for each waterway project not yet authorized, of the current users and the potential users in the waterway segment where the project would be located. If it is able to do, the Congressional Budget Office, perhaps with the help of outside contractors, would undoubtedly do a good job obtaining the desired information and presenting it to Congress.

It is most important to provide a situation such that the anticipated users will not hesitate to recommend, to Congress, less expensive and far more cost effective alternatives. With L&D #26 for example, some 20 years ago the barge line representatives supported an inexpensive lock modification proposal (then estimated by the Corps to cost \$15 million) for obtaining (in about two years) the additional lockage capacity they wanted. Unfortunately, this alternative was never even mentioned in the reports which were submitted to Congress. This alternative together with the low-cost methods of rehabilitating the present locks and dam (which the Corps' engineering expert, Homer Willis, finally admitted at the L&D #26 trial "could be physically done" without "any problem") was clearly the most cost effective solution. The U.S. taxpayers will pay about \$800 million more than was necessary and the barge lines were forced to wait 25 years longer than was needed to get the added lock capacity. While the New York Times editorial of Dec 4, 1978 (see Section F in Part I) described the Corps' economic evaluation of the Tenn-Tom project as "the engineering of deceit", the same description applies to the Corps' presentation of the engineering issues during the L&D #26 controversy. Attachment C lists 12 major engineering issues regarding L&D #26 where deception was considered to be involved.

C. Recommended Level For The Federal Government Subsidy With Capital Expenditures

From the standpoint of equity (between the Federal taxpayers and the direct beneficiaries and between the different modes of transportation) and the conservation and efficient use of the Nation's resources, the inland waterway users should pay 100% of the cost of modernizing, rehabilitating, and expanding the inland waterway system. While this is a desirable objective, a 50-50 Federal and non-Federal split for financing capital expenditures is more realistic and will accomplish the objective of weeding out the least feasible projects. This level of Federal subsidy for future capital expenditures could represent a good compromise since neither the promoters of the business as usual with over 90% Federal subsidy or those determined to remove the Federal subsidy would be satisfied with this level. It is noted that the same level of Federal subsidy was recommended in the statement from the National Governors' Association for the record of the June 21, 1983 Subcommittee hearing, which included the following:

"If instituted, new shallow-draft user charges should be sufficient to recover 50 percent of the costs of construction, rehabilitation or replacement of existing and new navigation projects and structures on the existing system."

It is recommended that congressional authorization of all future capital expenditures on the inland waterway system, including and beginning with the 13 new projects proposed in S. 1739, be limited to those for which the project appraisal information, obtained directly from the anticipated beneficiaries, indicates the total annual amount that the users and beneficiaries are willing to pay towards financing the project is equal to at least 50% of the average annual cost, with interest, of constructing the project plus 100% of the annual maintenance cost. It is further recommended that Federal funding of projects which meet this authorization requirement, be contingent upon the users and beneficiaries (including local and state governmental bodies) being able to assemble a financing package which would pay 20% of the cost of construction during the construction period and provide reasonable assurance to bonding institutions that the annual payments by the users and beneficiaries upon completion of the project would be adequate to cover the remaining 50% portion (i.e. essentially 30%) of the cost of construction with interest plus the annual maintenance cost.

Since the proposed authorization criteria would be solely dependent upon the information obtained directly from the anticipated beneficiaries, the usual economic evaluation of proposed inland waterway expenditures would be discontinued. This policy change would not only save considerable time and money, but would also recognize the fact that the Corps would rather not be bothered with having to justify the economics of proposed capital expenditures. (See Section F in Part I for a discussion of this situation.) With the expanded responsibilities recommended (in Section E of Part III) for the proposed Inland Waterways Users Board, this Board would be responsible for having the Corps and/or outside engineering firms study, design and prepare cost estimates for proposed capital expenditures desired by the waterway segment users in addition to obtaining the project appraisal information from the segment users.

D. Recommendations for Phasing-In a Ton-Mile Fee to Recover 50% of the Systemwide Operation and Maintenance Costs

The exceedingly weak arguments against any change in the Federal responsibilities for inland waterway expenditures, presented as follows, on page 7 of the Report (Calendar No. 625) on S. 1739 need to be examined:

- "(1) The barge industry is currently in a depressed condition and cannot afford to absorb any major imposition of use charges at this time, and
- (2) The industry deserves a say in how any such use charges are utilized, if fees are to be paid."

These arguments certainly do not have sufficient significance to prompt the Committee's decision to exempt the inland waterway users from paying even a penny (more than the current fuel tax) for the first \$646 million spent annually on capital improvements and operation and maintenance. Regarding the 1st argument, the placing of "any major imposition of use charges at this time" on the barge industry can be avoided by simply placing any new cost sharing requirements onto the shippers rather than the bargelines. The new cost sharing requirements recommended in this statement are, in fact, placed on the shippers. Furthermore, once the shippers begin to pay for a portion of the operation and maintenance costs, it is recommended that the current fuel tax being paid by the bargelines be terminated. The 2nd argument is essentially meaningless since all Congress needs to do is to give "the industry" (including both the barge industry and the industries which ship on the inland waterways) the opportunity and responsibility for determining what the waterway expenditures should be.

Two important considerations are missing from the administration's proposal to collect 70% of the operation and maintenance costs with a systemwide ton-mile tax, which for 1984 would be 1.1 mills and raise about 213 million dollars. These being the need to phase-in the ton-mile tax and to provide the opportunity (and responsibility) for the users to make the decisions regarding operation and maintenance expenditures. The writer recommends a

systemwide ton-mile fee to return to the U. S. Treasury 50% of the total operation and maintenance costs which would be phased-in over a period of three years. The ton-mile fee would be adjusted to recover 25% of the systemwide operation and maintenance costs the 1st year, 40% the 2nd year, and 50% the 3rd and succeeding years. In addition, the waterway users, thru the proposed Inland Waterways Users Board, would have the responsibility of reviewing, and revising as desired, the annual operation and maintenance expenditures. The User Board would be allowed to not only reduce O & M expenditures, but also to discontinue such expenditures for those waterway segments where the ratio of the ton-miles generated to the annual O & M costs falls below a given level. An individual shipper or group of shippers, with or without local or state help, could contract with the Federal government (or with contractors) to operate and maintain a segment, which the User Board no longer planned to continue to operate.

E. The Cost Sharing and Cost Recovery Recommendations Would Greatly Benefit the Federal Taxpayer and Have Little Impact on The Barge Industry

Clearly the big gainer from the writer's cost sharing and cost recovery recommendations is the Federal taxpayer. For the first time, the Government would start to recover a portion of the annual O & M costs. Also, for all the future capital expenditures on the inland waterway system the Federal taxpayer would pay 50% rather than over 90% of the total construction cost. The Federal taxpayer will also save many millions of dollars in that the least feasible waterway expenditure proposals will be weeded out.

The net effect of these recommendations on the barge lines will be slight unless they have been unable to pass along the fuel tax to the shippers. In that case, the proposals will greatly benefit the barge lines since they would be relieved of paying a fuel tax. The barge lines cost sharing for future capital expenditures would be no greater than 50% of the savings (from, say, reduced lockage delays) which they claim they would realize from the capital expenditures. The proposed recommendations will clearly affect the waterway shippers since they will not only be paying the equivalent of the annual fuel tax the first year, they will pay somewhat greater amounts thru a ton-mile fee the 2nd year and the 3rd & subsequent years. The shippers ton-mile fee payments the first year would be about 0.25 times \$235M or about \$59 million unless they choose to reduce the total operation and maintenance cost by, say, 10% in which case the payment would be $0.25(.9)\$235M$ or about \$53 million. If the total O & M costs were reduced another 10%, the 2nd year total ton-mile fee payment would be $0.4(.9)(.9)\$235M$ or \$76.5 million. If another 10% reduction was made the 3rd year, the total ton mile fee payment for that year would be $0.5(.9)(.9)(.9)\$235M$ or \$86 million. If the waterway shippers were to decide the ton-mile fee payment was too high for the 3rd and subsequent years, for every \$2 reduction in total O & M costs their ton-mile payment would be reduced by \$1. The cost sharing by the waterway shippers for future capital expenditures would be, on average, no greater than 50% of the benefits which the shippers claim they would receive as a result of the expenditure.

F. Recommended Changes in Selecting The Members of, and in the Responsibilities for, the Proposed Inland Waterways Users Board

The concept of an Inland Waterways Users Board proposed in S. 1739 is excellent; however, it is recommended the procedure for selecting the members be changed and the responsibilities for the Board be greatly increased. It is also recommended that the Board be composed of 24, rather than 21, members who would represent the 24 waterway segments listed in Public Law 95-502. Each member should be selected by a waterway segment user board rather than by the Secretary of the Army. The members of each waterway segment user board would consist of all the commercial users of that segment. Each segment board member would have a voice in the decision making (for that segment) in proportion to, say, the ton-miles of traffic on that segment the past year. Each segment user board would determine from its members the desired level of operation and maintenance expenditures for the coming year, which capital improvements in the segment should be studied, the anticipated benefits to the users from the improvement, and also take the lead in assembling a financing package

if the improvement is authorized.

Instead of the Secretary of the Army making the decisions regarding waterway system improvements, rehabilitations and modifications in accordance with what "he determines to be reasonable and desirable for commercial waterway transportation" (as proposed by the Dept. of the Army in S. 1554), it is recommended that the proposals for such capital improvements be made by the segment user boards and be conveyed to Congress by the national Users Board. The criteria recommended for authorizing and for funding capital expenditures is presented in Section C of Part III of this statement. It is further recommended that the segment user boards be required to contribute 50% of the cost of the studies for capital expenditures in their segments. It is recommended that the balance of the cost of these studies be obtained from the Inland Waterways Trust Fund. The national Users Board would be responsible for the studies of capital expenditures and for deciding (if it was not specified by the segment user board) whether the studies shall be contracted with the Corps and/or outside engineering firms.

The primary responsibility, which the writer recommends, for the proposed national Users Board would be to review the Corps' proposed O & M expenditures for the next year and make whatever changes it wishes. While the national Users Board would receive from each segment user board the level of O & M expenditures desired by the segment board in its particular segment, the national board would be free to make any changes in the level of O & M expenditures. The voting by the national Users Board members regarding O & M expenditures would be on the basis of the ton-miles of commercial traffic moved on the waterway segment which the member represents. To the extent necessary, the national Users Board shall employ a small staff and obtain funds for this purpose from the Inland Waterways Trust Fund.

G.E.A.
2-4-84

Attachment A

Summary of Background Information on the Serious Deficiencies in the Procedures Used
by the Corps of Engineers in Determining if a Proposed Inland Waterway Project
Would Result in a Justified Addition to the National Transportation System

Corps' Economic Evaluations Are of Little Value Because of These Deficiencies

1. The deficiencies exist primarily because the Corps' measure of project worth is based on the "savings to shippers" rather than on the savings to the nation in the cost of the resources required to provide the transportation service.
2. Government sponsored study commissions, including the 2nd Hoover Commission task force report on Water Resources and Power, have concluded the Corps' "savings to shippers" evaluation is inadequate, unrealistic, and "of little value" in determining whether a proposed waterway should be built.
3. On Sept. 10, 1980 Senator Moynihan indicated his concern regarding this issue when he stated, on the floor of the Senate during the debate of the Tennessee-Tombigbee waterway project, it is "economic bad sense" to measure the benefits of water transportation projects as the "savings to shippers". "We have to ask the benefits to transportation not to one mode", "because what is of savings to a (waterway) shipper may be a loss to a surface transportation system as well."
4. The fact that each and every project which would be authorized by the August 1983 draft of the proposed Water Resources Development Act (Senate bill S. 1739) has been approved by the Chief of Engineers has little meaning for the eleven inland waterway projects (which have a total Oct. 1982 cost estimate of over \$892 Million) because they were recommended solely on the basis of the estimated savings to shippers.

Real Worth of Waterway Projects to the Nation is Greatly Distorted

5. Reliable information is available regarding the extent to which the Corps' evaluation of the savings to shippers distorts the real worth of waterway projects from the national viewpoint.
6. On the only occasion when the Corps evaluated a waterway project on the basis of the economically correct procedure (which was specified by Presidential directive and printed in Senate Document #97, 87th Congress), the estimated rate savings to the shippers were 13.7 times the transportation cost savings to the nation! (See Pittsburgh District's Jan. 1965 report on the economic re-evaluation of the proposed Lake Erie - Ohio River Canal.)
7. In his most recent detailed analysis of the Tennessee-Tombigbee waterway project, Penn. State Univ. Prof. Joseph L. Carroll stated:
 "--- the nation will be fortunate indeed to capture as much as 20 cents for every dollar invested ---. The Corps' navigation benefit estimates appear to be overstated by a factor of ten or so because of the phantom freight in the traffic base and because of the faulty criteria used to calculate benefits."
 (See Prof. Carroll's paper "Tennessee-Tombigbee Waterway Revisited" printed in Vol. 22, No. 2 of the Transportation Journal for 1982.)

Congress Has been Misled to Believe the Law Prevents a Proper Evaluation

8. The apparent misunderstanding that Congress requires the Corps to evaluate the benefits from inland waterway projects in exactly the manner it does probably came about because of the Corps' response to a written question submitted during the 1974 "Corps of Engineers Oversight" hearings by the Subcommittee on Water Resources of the Senate Committee on Public Works. (See Sen. Moynihan's extended remarks on the floor of the Senate on Sept. 10, 1980 for an example of the misunderstanding on this matter.)

9. During the 1974 hearings, Senator Dick Clark asked the Corps' reaction to the point by economists that the "savings to shippers", as calculated by a rate comparison, can lead to gross errors and what is needed is a comparison of actual costs rather than rates. The Corps' response to the written question regarding the appropriate method of calculating benefits to navigation was as follows:
 "Ideally long-run incremental costs provides the real measure of savings in economic resources", but the Corps had been hampered in implementing the 1960 instructions of the Chief of Engineers to use costs rather than rates, and "subsequently the Transportation Act of 1966 specified prevailing rates as opposed to the cost procedure for evaluating navigation benefits."
10. From a detailed study of the legislative history on the D.O.T. Act it is clear that the Corps' explanation of what Congress resolved is incorrect. At no time was a rate versus cost issue discussed. Congress simply resolved whether the primary benefits to the direct beneficiaries (i.e. the waterway shippers) were to be based on a comparison of prevailing (i.e. current) rates or projected rates. Congress was deceived.
11. The current versus projected rate issue arose because within days after the Pittsburgh District received the results of the Lake Erie - Ohio River Canal re-evaluation from its economics consulting firm, the Chief of Engineers issued a directive to terminate use of the transportation cost comparison procedure for measuring project worth. He specified instead an interim procedure which would again merely measure the rate savings to shippers but would be based on projected rates instead of current rates. When Congress was considering the D.O.T. Act, the committees holding hearings were told and retold the complete lie that the Corps was unable to justify new waterway projects since the Bureau of the Budget had superimposed on the Corps a new evaluation procedure which required the use of projected rates. The truth, of course, was that the Chief of Engineers issued the new procedure and the Corps continued to justify new waterway projects based on the (projected) rate savings to shippers.

Other Benefits Can Be Evaluated to Establish Project Worth to the Nation

12. The conclusions of the National Water Commission in its June 1973 report on "Water Policies For The Future" regarding the requirements of Section 7 in the D.O.T. Act were:
 "Unfortunately, and in the opinion of the Commission unnecessarily, Section 7 has been interpreted as requiring the executive branch to confine its analysis (of inland waterway projects) to a determination of the first figure (savings to shippers). The law does not prevent the executive branch from applying any test of desirability that it considers essential to determining whether or not a (waterway) project is in the national interest." (Words in parenthesis added.)
13. The 1979 opinion of the Office of Legal Counsel of the U.S. Justice Dept. as to whether the administration has any latitude under Section 7a concluded that while Section 7a must be followed when determining the savings to shippers, it is silent as to the method for determining other benefits. Further, that it is clear that Congress realized full well that the primary direct benefits to the shippers are not the only benefits. The opinion also made reference, by a footnote, to the benefits mentioned in Senate Document #97 of the 87th Congress, which, for waterway projects, are the benefits to the nation in the cost of providing the transportation service.

Congress Never Received the Information It Requested to Establish Real Worth

14. With reference to Sen. Moynihan's 1980 statement that the benefits to waterway shippers may be a loss to a surface transportation system as well (economists refer to this as merely an income transfer from one transportation mode to another with no savings to the nation), Congress some ten years earlier had indicated its concern regarding the adverse effects of water resource projects. In Section #122 of P.L. 91-611, Congress directed the Secretary of the Army, acting through the Chief of Engineers to:
 "promulgate guidelines designed to assure that possible adverse economic, social and environmental effects" relating to water resource projects "have

been fully considered" -- so "that the final decisions on the (water resource) project are made in the best overall public interest." The subsequent guidelines developed by the Corps were very general and did not even mention the principal adverse effect of waterway projects consisting of the uncompensated loss of income to other transportation modes.

15. A more recent indication by Congress of its interest in additional information besides the savings to waterway shippers was in Section #101 of P.L. 95-502 which directed the UMRBC (Upper Mississippi River Basin Commission) in its preparation of a Master Plan to: "determine the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads" --- and the "transportation costs and benefits to the Nation to be derived from any expansion ---." (emphasis added)
16. Since the Corps' evaluation of the worthiness of expanded navigational capacity in the upper Mississippi River basin merely consisted of their usual measurement of the savings to shippers, Congress never received information on the transportation benefits to the Nation which it specifically requested. In addition the UMRBC was unable to make a meaningful decision as to whether expanded navigational capacity would be consistent with its economic objectives for the Master Plan which included: "to provide those economically justified commercial navigation improvements and expansion projects which are found to be needed and of advantage to the nation's total transportation system." While the loss of railroad revenue as a result of expanded navigational capacity was determined by the U.S.D.O.T., no attempt was made to compare this to the savings to shippers nor would this be easy to do since different methods were used to obtain average annual values.

Waterway Projects Never Evaluated as Part of the National Transportation System

17. Determining whether a waterway project would result in a justified addition to the national transportation system requires an evaluation of not only its real economic worth but also an evaluation of project "need" with respect to the existing total transportation system rather than from merely the limited viewpoint of the waterway users. The importance of need was stressed in the planning objective for waterway projects which was presented in the "Policies, Standards and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" which was approved by the President on May 15, 1962 and printed as S. Doc. #97, 87th Congress. The objective being that navigation projects "provide a needed transportation service with advantage to the Nation's transportation system".
18. As stated in the 1973 report of the National Water Commission, a major deficiency in the inland waterway program of the Federal Government is that "the waterways are not planned, evaluated, or regulated as a part of the national transportation system." In view of the extensive excess capacity which exists in much of the nation's transportation system, the national transportation policy statement by the U.S.D.O.T. Secretary on Sept. 17, 1975 stressed that "what is needed is not more capacity, but modernization, repair and more efficient utilization of existing capacity." This issue of excess capacity must be considered by Congress in its review of the many costly projects currently recommended by the Corps that would greatly increase the capacity of certain segments of the inland waterway system.
19. The practice of the Corps of ignoring the excess capacity of the rail mode when evaluating the need for navigation capacity expansion was explained as follows by Anson Kieckhorst, currently the Chief Economist of the Corps' St. Louis District: "Railroad Capacity: The Corps chooses to ignore this question by making it a non-question, i.e., simply by assuming the railroads could handle the waterway traffic. This very well may be the case, since on an overall basis Class I railroads generally have substantial amounts of excess physical capacity, on the order of two to three times existing levels of traffic." (See Transportation Research Forum paper during Oct. 1976 meeting.)

20. While the August 1983 draft of S. 1739 would authorize a \$313 million project to increase the locking capacity at one of the dams on the Ohio River, a study conducted for the Corps' Pittsburgh District by CONSAD Research Corp. determined that an expenditure of only \$8½ million for right-of-way improvements would be required to permit the existing rail network to handle nearly all (some 94% or 81.6 million tons annually) of the traffic moving on the Upper Ohio River waterway system. S. 1739 would also authorize a 200 million dollar second lock at L & D#26 which the UMRBC master plan report indicated would permit an additional 45½ million tons of waterway traffic by the year 2040. In contrast, the 1975 U.S.D.O.T. report on L & D#26 estimated the excess capacity for the north-south rail network which competes for traffic to the Gulf Ports to be 260 and 485 million tons annually for the low and optimal estimates respectively.
21. The Chief of Engineers' position on this issue at the D.O.T. Act hearings was that the Corps is only concerned with water resource development and they do not concern themselves with other modes of transportation. The position of the Corps' Dir. of Civil works in Oct. 1974 was:
 "I agree with your contention that the Corps cannot assume responsibility for total transportation planning of the United States. The fact that inland navigation is but one form of transportation, however, is inescapable."
22. The Feb. 16, 1973 decision of U.S. District Court Judge, Carl O. Bue, Jr. in Sierra Club v. Froehlke, 359 F. Supp. 1289, regarding the consideration under NEPA of transportation alternatives to inland navigation projects included the following:
 "--- consideration of alternatives to navigation necessarily will have to appear" --- "Some inquiry might be directed to the D.O.T. to determine what, if anything, might constitute other reasonable alternatives." --- and "common sense dictates that any consideration of alternatives under NEPA would require an overall assessment of existing transportation facilities in the area of the proposed project." This decision also made reference to an "environmental paper" prepared for the Corps by Stephen F. Austin State University which "recommended serious consideration of existing or new railway facilities."
23. It is doubtful that either the executive branch or Congress ever evaluated a proposed inland waterway project on the basis of whether it would provide a "needed" transportation service with respect to the existing total transportation system. Yet, this is exactly what Pa. Governor Raymond P. Shafer did in his May 1967 reply to the Chief of Engineers regarding the very controversial Lake Erie - Ohio River Canal proposal. His reply included the following:
 "At the present time, and for the foreseeable future, we have adequate transportation facilities to haul all types of commodities between the Ohio River and Lake Erie. This vast and diversified transportation system has never been taxed to the limits of its capabilities and readily provides facilities for transporting all the commodities considered for water transportation in the report. Since these existing traffic systems can provide the necessary facilities for transportation of all commodities, we cannot see any justification for the expenditure of over One Billion Dollars in order to provide additional water transportation facilities which are not needed."

GEA
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Attachment B

The Times-Picayune

NEW ORLEANS, SUNDAY, MORNING, AUGUST 29, 1982

River dredging hits snag among grain, coal men

Dredging may leave bitter taste

By KATHLEEN OSBORNE

When the Army Corps of Engineers proposed to dredge 253 miles of the Mississippi River in south Louisiana, officials in parishes that depend on the river for drinking water were troubled.

They still are concerned about the proposal.

Deepening the shipping channel to a uniform 55 feet from the Gulf of Mexico to Baton Rouge is expected to increase the frequency and duration of salt water intrusion from the Gulf of Mexico, a condition that could conceivably make Mississippi River water undrinkable in Orleans, Jefferson, St. Bernard and Plaquemines parishes.

Salt water moves upstream along the bottom of the river, while fresh water flows out at the surface. Deepening the river's channel would allow salt water to travel farther upstream during low-water flows than it would with the 40-foot channel, a report by the corps shows.

Because of the salt water problem, the corps proposed building water storage tanks in the affected parishes to be used when river conditions makes the river unusable.

However, that plan has been abandoned because of the basic impracticality of trying to store the necessary millions of gallons of water. Instead, the engineers have decided to block the salt water's movement upstream by installing an underwater barrier at Mile 64, six miles above Myrtle Grove and 64 miles from the river's mouth.

Because the channel is already 60 or 65 feet deep at that point, a 10-

By DAVID A. SIMPSON

The Army Corps of Engineers' proposal to deepen the Mississippi River to 55 feet from the Gulf of Mexico to Baton Rouge is being criticized by officials in the grain and coal industries, the groups for whom the project was primarily developed.

Officials with Cargill Inc., Continental Grain Company and Bunge Corp. in recent interviews expressed serious reservations about the proposal.

"As far as (shipping) grain is concerned, it would be of no use," said Stan Smith, a transportation official with Cargill, one of the largest grain companies in the world.

Calvin Watson, plant manager of the St. Charles Grain Elevator, agrees. "I really don't see much need for it," he said.

The National Grain and Feed Association, an industry trade group, has not taken an official stand on the issue, but spokesman Bill Keating said, "We haven't seen the need for it (deepening the river)."

The corps says the project would save the grain industry about \$750 million per year in reduced shipping costs. Joseph Dykes, project manager, says this figure represents about half of the benefits the project would generate.

If the river were deepened, the grain industry would be able to use larger, deeper-draft vessels able to carry more cargo than those in service, according to Dykes. Ships now using the Mississippi may not exceed a 40-foot draft.

The corps now estimates that it will cost \$525 million to deepen the river and \$178 million each year to maintain the river channel at the new depth, according to Dykes. These costs are in 1981 dollars and would be in addition to the \$25 million spent each year to keep the channel at 40 feet, he said.

Dykes claims that every dollar spent on the project would generate a savings of more than eight dollars. "It's economics of scale," he said.

Smith, however, says the corps' calculations are "totally absurd as far as the grain business goes."

He estimates the savings for the

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Turn to Section 1, Page 4

Dredging hits snag among industries

Continued from Page 1

entire grain industry to be \$10 million to \$20 million per year. "The numbers just aren't there to warrant deepening the Mississippi River beyond 40 feet," Smith said.

Corps and local port officials claim the grain industry is unwilling to support the dredging project because of the likelihood that the industry will have to help pay for it.

The Reagan administration's policy against having the federal government underwrite the costs of such projects means that private industry will have to pay a significant portion of the cost of future water projects, or they won't be done, said Robert Dawson, a Reagan appointee with the corps.

Any legislation passed authorizing the deepening of the Mississippi will most likely contain some formula under which the users of the deeper channel would be charged for the construction and maintenance costs, according to maritime officials and congressional staff members.

As a result, "the grain people have been very silent" about the project, Dykes said.

Smith, however, says the river-deepening project wouldn't significantly benefit the grain industry, regardless of who ultimately pays the bill.

"Only three major grain-discharging ports in the world can handle boats with over 40 feet of draft," he said. "We don't need that much draft for what we ship," said Cargill spokesman Allen Holbert. Only 8 percent of all U.S. grain exported could travel on deep-draft ships because of the limitations of foreign ports.

Herbert Haar, assistant executive

port director in New Orleans, said this argument is shortsighted.

"All major industrial nations, with the exception of the United States, have, or are providing, deep channels for their ports," he said. If America does not act soon, he warned, U.S. exports will be at a great disadvantage because of higher transportation costs than their competitors.

Coal and grain officials say that while several foreign ports are indeed deeper than the level of the Mississippi, many are not deep enough to accommodate bulk cargo vessels drawing 55 feet.

Also, they say, the restrictions imposed by the Panama Canal make future widespread use of ships with drafts of 55 feet unlikely. The Panama Canal can accommodate ships with drafts of 40 feet.

Haar said he believes the Panama Canal eventually will be modified to be able to handle the larger ships.

The apparent inevitability of user fees may have also tempered many coal industry officials' enthusiasm for deepening the river. The great surge in the amount of export coal passing out of the Mississippi in 1980 and 1981 had prompted some coal officials to call for the immediate deepening of the river to accommodate larger coal-liners. While some still insist the deepening is worth doing, several doubt the project is economically worthwhile.

National Coal Association, the industry's largest trade group, "supports some kind of user fee structure," said spokesman Joe Lema. However, the group has not endorsed any particular legislation because there is no consensus on what is a "fair and equitable

manner" to impose those charges, Lema said.

Mike Rogers, a spokesman for AMAX Coal Co., which exports via the Mississippi, said his company doesn't have any need for a deeper channel.

"The availability of bigger vessels would not be of significance to AMAX," Rogers said.

Louis H. Meece, president of International Marine Terminals, a company which operates a large coal handling facility on the river, said he is strongly in favor of the project but has not endorsed any particular user fee strategy.

The river should be deepened, Meece said, but he said that user fees "could be at a prohibitive level" that would offset any savings in transportation cost.

The potential benefits to the coal industry have been put in further doubt recently by the significant drop in the demand for U.S. coal. Many developers who once thought the Mississippi would serve as the conduit for significant amounts of export coal have changed their minds.

For example, the developers of the Magnolia Coal Co. terminal in Plaquemine Parish have announced that they are no longer pursuing the project. The terminal site is now for sale, according to company spokesman Jerry Cunningham. Other coal-handling facilities once scheduled for construction have been postponed or abandoned.

While Haar and New Orleans Executive Port Director Edward S. Reed continue to be optimistic over the project, other Louisiana port officials are not as enthusiastic about the corps' proposal.

"I don't see any need for it," said

C.W. Herbert, executive director of the Port of Baton Rouge. Furthermore, Herbert said, "I haven't heard of anybody here that wants it."

Former Baton Rouge port attorney George Mathews, considered by many port officials to be one of the leading experts on the Mississippi River below Baton Rouge, is strongly opposed to deepening the river channel.

"It is not only a waste of money, but an undertaking for which there is no present material need and one which will produce no future benefits of consequence," Mathews said.

Mathews says the corps has drastically underestimated the cost of dredging. Moreover, he questions the corps' capacity to maintain the river at the new depth.

The expected economic benefits of the proposed dredging will be a primary concern of a \$400,000 study by New York consultants Tippetts, Abetti, McCarthy and Stratton. The study was commissioned for a task force created by Gov. David C. Treen to look into the proposed dredging of the Mississippi.

The study, scheduled to take six months to complete, will begin September 15 according to Joseph Cocchiara, project manager for the task force. Economic consultants Booz, Allen and Hamilton, Inc. of Maryland will do much of the economic analysis under subcontract to the New York consulting firm, Cocchiara said.

According to officials with the governor's task force, the findings of the corps study "is not going to be accepted blindly," said task force executive member Shep Perrin, an engineer with the Baton Rouge company of Pyburn and Odum.

Attachment CEngineering Issues Regarding the I&D #26 Controversy

After the early resolution of the question of the congressional authority, the essentially dominant issues which emerged in the I&D #26 controversy were of an engineering nature. While most large waterway expenditures have been challenged as to whether they are needed and economically justified, the I&D #26 controversy was unique in that numerous engineering statements, decisions and practices were questioned and seriously challenged. To give some indication of the magnitude and importance of these issues, a partial listing of what was challenged is as follows:

- (a) That the structural integrity of the dam is questionable, or that the structure has deteriorated and is literally crumbling, etc.
- (b) That rehabilitation of the structure would require cofferdams and would be as expensive as the proposed total replacement.
- (c) That the reported horizontal movement of the dam was significant or even accurate.
- (d) That proven and inexpensive methods could not be used for increasing the lateral (horizontal) resistance of the dam if such added resistance were required.
- (e) That the voids under the dam were significant or could not easily be repaired if found to exist.
- (f) That the need for any major rehabilitation of the dam had even been established.
- (g) That the downstream scour hole and loss of protection stone should have been used as a scare tactic.
- (h) That replacement of the downstream protection stone and lining of the scour holes, which should have been accomplished years before as a routine maintenance item, was delayed essentially until a political decision on I&D #26 had been reached.
- (i) That the present locks could not be individually dewatered with safe and reliable procedures.
- (j) That the lateral or riverward movement of the lock walls was a particular problem that could not be easily stabilized.
- (k) That it was necessary to consider field testing of the proven techniques for increasing the lateral resistance of dams. (i.e. that we had technical problems rather than people problems).
- (l) That all less expensive alternatives for expanding the lockage capacity were fully considered.

At the request of President Carter, a \$15 million field test of rehabilitation alternatives was undertaken but Congress and the President finalized their decision on I&D #26 prior to completion of the tests. The test results proved to be of less value than had been anticipated because substitute or incorrect installation measures were used which resulted in one case in an abnormally expensive installation and in another instance in the loss of bed material. Thus the field tests proved to be of little value because the I&D #26 issue was settled before the tests were completed and because non-representative installation measures and results were obtained.

While it was anticipated the key engineering issues would be resolved when the I&D #26 lawsuit went to trial, this was not entirely the case. While the Corps' engineering expert, Mr. Homer Willis, agreed that the low-cost methods of rehabilitating the present locks and dam proposed by Mr. William Wahler, a distinguished engineer and dam safety analyst, could be physically done ("I don't think there is any problem. It could be physically done"), Judge Richey said in his opinion: This court will not attempt to resolve conflicting scientific opinions thereby substituting its judgment for that of the defendants."

(Quoted from the writer's April 10, 1981 letter to the Great River Study Committee which was printed on pages 280 & 281 in the Review Comments Volume of the Jan. 1, 1982 Master Plan Report by the Upper Mississippi River Basin Commission.)

STATEMENT
OF
WILLIAM H. DEMPSEY
PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

ON
INLAND WATERWAY POLICY AND PROJECTS
S. 1739, TITLE V

HEARING BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON WATER RESOURCES

JANUARY 24, 1984

Introduction

My name is William H. Dempsey and I am President of the Association of American Railroads. Our members operate 94 percent of the total railroad mileage in the United States, employ 92 percent of the nation's railroad workers, and handle 98 percent of the nation's railroad freight traffic.

I would like to submit for the record the position of the freight railroad industry regarding federal water projects.

Both equity and economic efficiency dictate the need for inland waterway user charges. The navigation related costs of new capital investment and the costs of operations and maintenance should be paid by the barge operators that benefit from waterway expenditures. Absent full cost recovery user charges, waterway development expenditures represent a subsidy to rail-competitive barge operations. Unless the current cost recovery system is significantly improved, railroads must continue to oppose waterway development projects.

America's freight railroads have a legitimate interest in public policy affecting inland navigation projects. Railroads compete with the nation's inland commercial barge lines for a substantial portion of freight traffic. To the extent inland navigation projects are financed by the general taxpayer, railroads -- which must themselves build, operate, maintain, and pay taxes on their rail rights-of-way -- can suffer significant competitive disadvantages. And rail shippers who must compete in the marketplace with barge shippers are also adversely impacted.

Unrecompensed public works projects not only provide unfair benefits for a select few; they also produce unsound public investments. Because

beneficiaries of waterway projects are not presently responsible for anything approaching the full costs, they have insufficient incentive to select "efficient" projects. Overinvestment in uneconomic projects can easily result when beneficiaries face no financial penalty for poor decisions -- as would be the case in private investment.

The provisions of S. 1739, Title V in particular, should aim not only to reduce the inequity but also the inefficiency that characterizes the present Army Corps of Engineers inland waterway funding program. How and why to achieve these aims are addressed in the sections that follow.

Alternatives For Higher Cost Recovery

Existing law, (P.L. 95-502, The Inland Waterway Revenue Act of 1978) requires an 8 cent tax on fuel used by towboats. In October of 1985, the charge is raised to 10 cents per gallon. Revenues from the fuel tax have averaged (FY 81-83) about \$6 million per year per 1 cent of tax, or about \$48 million projected for this current year. The Army Corps of Engineers estimates that annual expenditures on inland waterway commercial navigation have exceeded \$645 million the last four years and will reach close to \$600 million in FY 84. Cost recovery levels, therefore, have been running at less than a mere 5 percent annually for the last three years and are unlikely to reach 10 percent this year.

Instead of raising cost recovery levels, Title V of S. 1739 would actually ensure that annual user charges never exceed 10 percent, as long as spending remains at the cap. At \$646 million, that cap allows for more spending than in 1984 and for more than is currently projected in future years, with no increase in user charges.

Any expenditures exceeding the cap would be paid for in full by the users. While this cap is sound in theory, its present level is simply too high to achieve meaningful reform.

The Simpson Amendment, which proposed to lower the ceiling by \$35 million each year, would have greatly improved Title V and -- eventually -- the existing cost recovery system. We were pleased that eight Senators on this Committee voted for the Simpson Amendment. We would urge continued support for this concept.

Senate bill S. 1554, introduced last year by Committee Chairman Stafford at the request of the Administration, proposed to set inland waterway cost recovery at a 70 percent recovery level. We realize that the Simpson Amendment and the Administration's proposal each represents a substantial compromise from the 100 percent recovery level endorsed earlier by this Administration. We do not support a retreat from the principle of full cost recovery; but, we would urge the Committee to adopt either proposal to achieve the needed improvement over the \$646 million annual cap presently proposed in Title V of S. 1739.

The most crucial point about the existing inland waterway user charge system is that recovery levels are too low. Whether the Simpson Amendment, the Administration's 70 percent proposal, or some other similar arrangement is adopted, neither existing law nor the proposed \$646 million cap is adequate.

Why Higher Cost Recovery Is Important

Higher cost recovery serves a fiscal purpose. Nations have limited resources. Because of this limit, the federal government must ration the

use of its funds. For example, money spent to subsidize private navigation interests is money that cannot be used to finance necessary defense and entitlement programs or to lower the record deficits which are forecast for the next five years.

Higher cost recovery serves other purposes as well. A second major benefit of higher cost recovery is that it constitutes the best guarantee of sound project evaluation. After all, when the barge industry is using taxpayer money to build water projects, the need for analytical precision is small: a bad project simply wastes taxpayer money; it does not come from the pockets of barge operators. When public funds are used, projects can fail and only taxpayers are hurt. While it is true that even the private sector can make bad investments, forcing the barge industry to use its own money will minimize the economic disasters that many of the inland waterway project investments have been.

On February 7, 1983, before the House Appropriations Subcommittee on Energy and Water Development, Assistant Secretary of the Army William R. Gianelli testified (p. 10): "We believe that if a water project represents a sound investment, an investment whose benefits exceed its costs, the beneficiaries will be able to repay its costs over the life of the project and to organize new sources of financing which do not require outlays from the Federal Government of the magnitude as traditionally relied upon." Gianelli's prescription seems quite clear: the best way to select sound projects is to select those for which users have chosen to pay.

Eliminating the tendency to overbuild would be a third benefit from higher cost recovery. In other words, a given amount of efficiency gain

on the inland system can usually be accomplished by methods that cost less than new or added construction -- for example, peak use pricing of congested facilities. But, as long as users are not forced to pay for the solution that is chosen, then unnecessary construction will continue to be undertaken.

A fourth important benefit from higher cost recovery is the fact that meritorious projects would be accelerated. User charges could be used directly to finance the crucial projects. Without subjecting the project selection process to costly delays and debate over which projects to fund, project beneficiaries could reap investment returns sooner.

With regard to the Inland Waterway Users Board proposed in Title V, we feel it is a potentially sound concept and very consistent with the various objectives of higher cost recovery. Afterall, a chief premise of user charges is that if forced to pay, the industry will select only worthwhile projects. If the ceiling on federal funding of water projects is low enough, then users will be forced to pay and they will be meticulous in their project selection. Thus, if S. 1739 is revised to genuinely increase user charges, it seems only consistent to officially grant the users a role in determining how the money is spent.

On the other hand, if there is no meaningful increase in user charges, then the Users Board would seem superfluous. The Users Board will have insufficient incentive to oppose unworthy projects or shape user charges to produce efficient capacity utilization so long as projects are financed overwhelmingly by non-users.

The Impact on Carriers, Shippers, and Balance of Payments

The principal objection raised by opponents to full recovery user charges is that such charges will "harm" certain interests. Obviously, user charges will have impacts and there will be gainers and losers. If not, no one would care. At the same time, however, it is misleading to exaggerate the magnitude of those prospective changes, or to ignore the system's capacity to adjust to changes of the magnitude likely to occur. In fact, even under 100 percent recovery, the impacts are less than popularly perceived. Further, recovery proposals presently under consideration are far less than 100 percent; and finally, if a spending cap concept is implemented, no user charge increases occur at all unless spending exceeds the ceiling.

Claims of harm were elaborately studied in the Department of Transportation's Section 205 Study which found them to be greatly exaggerated. For example, the study found that while some barge traffic would certainly be affected in the short term, even under full cost recovery overall barge traffic would still grow at least 50 percent over 1977 levels by the year 2000 (see Section 205 Study: "Inland Waterway User Taxes and Charges," U.S. DOT (Washington, D.C., February 1982), p. 4).

Similarly, it noted that the most severe full cost recovery price impact on a bushel of grain was estimated at about 4 cents to 6 cents per bushel. This price impact is small compared to customary market force price swings, which in 1980 alone exceeded \$1.00 per bushel for corn and \$3.00 per bushel for soybeans (*Ibid.*, p.10).

Table 1 provides a comparison of selected grain prices over the 1982-83 period. The figures show some yearly price fluctuations of nearly \$4 (per bushel), all caused by factors other than user charges. Shortages produced by bad weather is one example; a swing in currency values is another. This currency factor may soon play a more dominant role in affecting grain prices, if fuel prices continue to stabilize. Vis-a-vis all European Common Market currencies and the Japanese Yen, the 1984 U.S. dollar is nearly 25 percent higher than in 1979 (The Economist; December 17, 1983, pp. 61-62). This has the effect of adding 90 cents to a bushel of grain compared to the pennies per bushel attributable to full recovery user charges.

Admittedly, some groups, particularly the barge operators, would still be left at least somewhat worse off as a result of higher user charges. These losses, however, would be more than offset by gains to taxpayers and unsubsidized shippers and carriers. In this fundamental sense, all of the impact studies are misleading. The most important impact of waterway user charges would be to produce a net improvement for the economy.

Further, in discussing how user charge impacts are overstated, it is important to dispel misconceptions regarding the relationship between user charges and the U.S. balance of trade. Some have charged that user fees will raise transport costs, reduce foreign demand for U.S. goods, and harm our balance of trade. While these events are theoretically possible, projected results are frequently exaggerated. In fact, higher cost recovery can even contribute to an improvement in our trade balance.

The importance of factors other than user charges and the capacity of export markets to absorb price increases both indicate that the foreign trade impact of user charges is negligible. The grain trade is a good illustration, where annual yield per acre (due primarily to weather) in different countries can sharply impact available supplies. In addition, changes in fuel costs, world economic conditions, and the strength of the dollar (relative to other currencies) can dramatically affect demand and prices.

Similarly, the ability to absorb price increases throughout the product marketing chain minimizes the net effect of user charges. For example, in the grain market price increases may be spread among carriers, farmers, grain elevator operators or other middlemen. In addition, certain countries may even intercede to raise or lower import prices in order to stabilize prices in their own domestic markets.

Further, given the size of the export grain market, it is not surprising that user charges could be absorbed. Annual U.S. grain exports exceed 100 million tons with a total value of more than \$15 billion. A 100 percent inland waterway user charge, in contrast, would probably add less than \$100 million to all U.S. grain shipments and only part of that in the export market. This amounts to less than 1 percent of the export value.

Whatever the impact of higher user charges on export prices, part of the result actually may be to help increase demand for U.S. exports. It is generally acknowledged that high interest rates, fueled by rising federal deficits, widen the gap between U.S. and foreign currencies. To

the extent cost recovery reduces deficits and causes interest rates to decline, the relative strength of the dollar may decrease and other nations will purchase greater amounts of U.S. goods.

These various factors alone would mitigate the impacts of high levels of cost recovery. Yet, two conditions strongly suggest that recovery levels themselves will actually be quite low, thus further reducing the extent of the impacts. First, often ignored by various impact analyses is the fact that current government expenditures probably overstate the amount of money that would have to be recovered by full cost recovery user charges. If imposed, such user charges would eliminate funding for projects where costs exceed benefits, and program expenditures would fall. User charge revenue targets would decline accordingly. The second condition is that 100 percent cost recovery seems certain not to occur for the foreseeable future; both the Administration proposal and the Simpson Amendment -- the most probable candidates for higher user charge legislation -- are far below full recovery.

Finally, if the spending ceiling concept is implemented, then no new user charges would result at all unless spending exceeds the ceiling. A scrutinized spending budget could eliminate further impacts altogether.

Conclusion

This Committee has specifically asked to what degree continued commercial navigation subsidy is warranted and how to encourage more cost effective inland waterway projects. We respect the Committee's genuine concern about curbing costs and identifying only the most necessary federal water projects among a seemingly endless list of competing requests. We believe that significant levels of cost recovery would solve both dilemmas and that Congress should encourage such a solution.

Title V of S. 1739, if properly modified, has the potential for achieving some of the reforms that are needed. In its current form, however, it will only perpetuate the conspicuously flawed method of undertaking inland waterway commercial navigation projects in this country.

Again, let me express my appreciation for the opportunity to present our views. These matters are of vital significance to the railroad industry.

TABLE 1
CASH GRAIN PRICES^a
(\$ Per Bushel)

<u>Week Ended</u>	<u>1983</u>			<u>Comparable Week 1982</u>		
	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>
Jan 7	3.98	2.44	5.69	4.37	2.60	6.22
Jan 14	4.00	2.49	5.87	4.40	2.63	6.31
Jan 21	3.99	2.54	5.88	4.30	2.64	6.32
Jan 28	4.00	2.63	5.94	4.26	2.65	6.39
Feb 4	4.04	2.70	5.99	4.30	2.67	6.37
Feb 11	4.06	2.73	5.91	4.28	2.63	6.20
Feb 18	4.10	2.81	5.99	4.26	2.61	6.17
Feb 25	4.11	2.83	5.83	4.21	2.60	6.11
Mar 4	4.12	2.87	5.69	4.29	2.63	6.10
Mar 11	4.12	2.89	5.80	4.22	2.65	6.03
Mar 18	4.17	2.94	5.93	4.24	2.68	6.17
Mar 25	4.23	3.07	6.18	4.27	2.71	6.26
Apr 1	4.23	3.19	6.31	4.25	2.69	6.32
Apr 8	4.24	3.21	6.39	4.28	2.68	6.48
Apr 15	4.25	3.22	6.35	4.30	2.69	6.45
Apr 22	4.17	3.20	6.33	4.29	2.74	6.48
Apr 29	4.18	3.28	6.43	4.28	2.79	6.53
May 6	4.13	3.28	6.38	4.23	2.80	6.53
May 13	4.03	3.16	6.26	4.25	2.81	6.61
May 20	4.01	3.20	6.27	4.28	2.80	6.64
May 27	4.03	3.24	6.18	4.11	2.77	6.44
Jun 3	4.02	3.24	6.13	4.03	2.73	6.18
Jun 10	4.00	3.30	6.16	4.14	2.81	6.31
Jun 17	3.96	3.29	6.00	4.15	2.79	6.28
Jun 24	3.82	3.30	6.11	3.95	2.76	6.33
Jul 1	3.77	3.28	5.98	3.92	2.70	6.16
Jul 8	3.72	3.31	6.21	3.65	2.71	6.14
Jul 15	3.68	3.34	6.42	3.75	2.75	6.30
Jul 22	3.73	3.38	6.85	3.81	2.70	6.18
Jul 29	3.71	3.42	6.96	3.72	2.54	6.09
Aug 5	3.77	3.61	7.60	3.67	2.50	5.99
Aug 12	3.84	3.68	8.10	3.62	2.37	5.64

TABLE 1 (cont.)
CASH GRAIN PRICES
(\$ Per Bushel)

<u>Week Ended</u>	<u>1983</u>			<u>Comparable Week 1982</u>		
	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>	<u>Wheat</u>	<u>Corn</u>	<u>Soybeans</u>
Aug 19	3.93	3.71	8.69	3.76	2.33	5.55
Aug 26	3.94	3.69	9.02	3.79	2.42	5.67
Sep 2	3.97	3.61	8.82	3.78	2.42	5.45
Sep 9	3.99	3.70	9.16	3.77	2.31	5.27
Sep 16	3.92	3.59	8.77	3.75	2.37	5.34
Sep 23	3.88	3.62	8.97	3.74	2.30	5.29
Sep 30	3.80	3.54	8.59	3.71	2.22	5.23
Oct 7	3.81	3.53	8.38	3.65	2.14	5.30
Oct 14	3.89	3.55	8.51	3.65	2.14	5.32
Oct 21	3.86	3.42	8.44	3.56	2.09	5.27
Oct 28	3.81	3.46	8.24	3.58	2.10	5.32
Nov 4	3.81	3.46	8.41	3.75	2.23	5.52
Nov 11	3.83	3.56	8.51	3.80	2.37	5.65
Nov 18	3.80	3.54	8.01	3.86	2.42	5.68
Nov 25	3.82	3.42	7.70	3.99	2.48	5.69
Dec 2	3.83	3.46	7.93	3.96	2.36	5.63

^a Wheat - #1 HRW-ORD., Kansas City. Corn - #2 Yellow, Chicago; SB-1 Yellow, Chicago.

SOURCE: "Grain Transportation Situation," published weekly by the United States Department of Agriculture.

In The Matter Of
Titles V and X of
S.1739

OVERSIGHT HEARINGS
DIRKSEN BUILDING
WASHINGTON, DC

January 24-25, 1984

Statement of

Richard H. VanDerzee
Deputy General Manager/Maritime
Chicago Regional Port District
12800 Butler Drive
Chicago, IL 60633

Before The
Senate Committee On
Environment and Public Works
Subcommittee on Water Resources

S.1739INTRODUCTION

The following statement is submitted in the format requested in the News Release dated November 28, 1983 from the office of Senator Robert T. Stefford (R-VT.) Chairman of the Senate Committee on Environment and Public Works. Comments are limited to Title V (Inland Waterways and Harbors) and Title X (General Cargo Harbors).

A. TITLE V

Government Subsidy Program

The fees imposed and collected by the U. S. Customs Service contribute almost \$11B. to the Treasury. Virtually all of these charges are generated as a direct result of the ports and waterways which provide the essential facilities and services. The Federal government should continue to subsidize ports and waterways from Customs fees and other sources in amounts sufficient to maintain, operate and eventually expand their participation in international trade. The general revenue allocations provided in Titles V and X will satisfy these basic needs, however the participation required of non-Federal funding should not exceed 25% of project costs. Section 502(a) should be changed at line 22 of Page 112 of the Bill to read as follows, (additions underscored):

22 - Board, established pursuant to section 503 of this title: Provided,
however, that such use charges shall not exceed twenty-five percent
(25%) of such costs.

TITLE V

Cost Effective Encouragement

For the most part Title V encourages cost-effective work by placing limitations on the amounts of Federal monies proposed for each project, in accordance with the recommendations of the Corps of Engineers. A violent exception is found in Section 506(a) concerning the authorization to maintain and rehabilitate the New York State Barge Canal. There is neither a time limit nor a dollar restriction

included in this project which is contrary to customary Corps procedures as well as prudent financial management. The condition of the Barge Canal is such that Federal costs could easily exceed ONE BILLION DOLLARS! There is little consolation in the provision which would require 50% funding by the State of New York for a waterway which carries minimal commercial cargo and for which studies indicate there is little hope for ever generating traffic. This is the same State that has vehemently opposed Seaway season extension and virtually every other program that would enable the Seaway to reach its full potential. It is the State that has opposed the elimination of discriminatory Seaway tolls and the creation of a St. Lawrence Seaway Development Administration under the Department of Transportation, the ultimate cost of which would be less than \$10,000,000 per year for maintenance and operation of U. S. Seaway locks. There is no justification for providing a "blank check" for this project!

Section 506(a) should be changed at line 11 of Page 118 of the Bill as follows, (additions underscored):

11 - one-half of the cost to rehabilitate the canal: Provided, however,
that annual Federal costs for operation and maintenance shall not
exceed \$10,000,000 and total Federal costs for rehabilitation shall
not exceed \$100,000,000.

Inland Waterways Users Board

The structure of the membership of the Inland Waterways Users Board should be predominantly represented by a spectrum of users and shippers from various affected regions. Additional representation from Federal agencies could also contribute to the effectiveness of the Board while providing guidance and a degree of fiscal reality.

Section 503(a) should be changed at line 7 of Page 114 of the Bill as follows, (additions underscored):

- 7 - categories of commodities shipped on the waterways. The Secretary shall also select a representative from the Office of Management and Budget, the General Accounting Office and a member of the Senate Committee on Environment and Public Works.

Setting of Use Charges By the Corps

In addition to the specific limitation in Section 501, the recommendations of the Inland Waterways Users Board would be the controlling factor affecting the ability of the Secretary of the Army and the Corps to set inland use charges. The restriction in the Bill whereby funds shall be obligated "solely on commercial navigation features" will also serve as a control limitation. No changes are necessary in this regard.

B. TITLE X

Incentives for Cost-Effective Super - Port Projects

Section 1004 provides reasonably good incentives to construct cost-effective super-port projects, however, a maximum depth limitation placed on these deep water harbors would serve as an additional incentive. It would also tend to promote the concept of off-shore ship-to-ship transfer via efficient self-unloader vessel operations.

Section 1004(g) should be changed at line 15 of page 170 of the Bill as follows (additions underscored):

- 15 - beyond forty-five feet to and including eighty feet below mean low water: etc.....

Allocation of Non-Federal Costs (Section 1006(b))

The recent study by Data Resources, Inc., prepared for the federally funded Great Lakes Commission, entitled "The Economic Impacts of a Uniform, Deep-Draft

User Charge on Great Lakes Shipping" states, among other things, that the imposition of national user fees on a tonnage basis would require 26.8 cents per ton for full recovery of U.S. operations and maintenance costs. This would enable collections of \$46 million from Great Lakes shippers while an ad valorem basis of assessment would derive \$10.8 million from these same shippers. Similar results were prevalent in the report entitled "Economic Effects of Levying a User Charge on Foreign and Domestic Commerce to Finance Harbor Maintenance", conducted for the Economic Development Administration of the Department of Commerce. The report, released in September of 1983, is severely critical of the user fee of 25 cents per ton used in the study. It states that ".....for the industries, it would mean declines in sales, employment, income and cargo. Customs collections would also decrease, as would federal, state and local income and direct and indirect business taxes.....". The report leaves considerable doubt regarding the user fee concept. The assessment of user fees on a tonnage basis would invoke additional discrimination against Chicago and other Great Lakes ports and would further jeopardize the development of America's step-child - the fourth Seacoast.

The Chicago Regional Port District cannot support any form of user fees unless and until the existing exorbitant Seaway tolls are eliminated. As soon as this is done we would support the general concepts and provisions of S.1739; provided, however, that uniform national fees will be assessed on an ad valorem basis. An assessment based on tonnage would not be acceptable unless it included a scaled valuation within its framework, e.g.,

Commodity value up to \$400.	per ton - \$.02 per ton
" " over \$400. to \$800.	per ton - \$.03 per ton
" " over \$800.	per ton - \$.04 per ton

A maximum non-Federal participation of 25% of maintenance and operations costs would apply in any event.

The question of assessing 80% of user fees against the "users that benefit directly" is a dubious one at best - at least insofar as harbors and ports under 45 feet draft are concerned. This provision may have application for deep-draft harbors over 45 feet which would be used by less than 1% of all vessels and which require the 50% financial participation for costs of maintenance over the 45 foot depth. However, the administrative burden and questionable equality inherent in assessing these fees for the 99%⁺ of vessels drawing 45 feet or less is not justified.

Section 1006(b) should be changed at line 22 of Page 172 of the Bill as follows (additions underscored):

22 - maintenance or improvement undertaken pursuant to Section
1004(g) shall be established....etc.....

Conclusion

Ports and harbors in the United States make a major contribution to the American economy - a contribution to be encouraged rather than deterred. User fees of any kind impose a huge burden on ports and harbors, a fact well known to the Great Lakes. If Seaway tolls are eliminated, the Chicago Regional Port District could live with a reasonable level of ad valorem based user fees uniformly assessed nationally. These fees should be assigned ONLY for maintenance and repair of PORT facilities. Dredging and harbor maintenance (under the 45-foot draft limitation) should continue to be the total responsibility of the Corps of Engineers.



DOW CHEMICAL U.S.A.

WILLARD H. DOW CENTER
2020 BUILDING
January 3, 1984

BARSTOW BUILDING
2020 DOW CENTER
MIDLAND, MICHIGAN 48640

The Honorable James Abdnor
309 Hart Senate Office Building
Washington, DC 20510

Dear Senator Abdnor:

Dow Chemical Company wishes to submit the following statement to be made a part of the record on Oversight Hearings on S-1739, scheduled for January 24 and 25.

I. Title V - Inland Navigation

- A. The funds authorized in Section 501 (\$646MM) should be segregated into operation and maintenance expenses and capital expenditures.
- B. Beneficiaries should pay the cost to maintain, replace, and/or repair existing facilities and/or to construct new facilities through a "user's" fee. This fee should be proportional to the benefit derived by the user. (Commercial navigation should pay a maximum of 50% of O&M expenses. the direct beneficiaries should pay for replacement and/or facilities).
- C. There should not be a portion of annual expenditures taken from general revenue funds, i.e., the shortage not provided by user fees.
- D. The 21 member user's board is a fair and suitable method for user's to make recommendations to the Secretary of the Army but these recommendations should not be binding on the Secretary (Section 503).
- E. Funds spent by the Secretary should be only as authorized by Congress (Section 504).

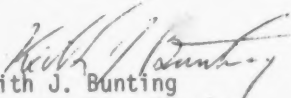
II. Title X - Harbors

- A. All user's of ports should pay the costs to operate and maintain them. The user's share should be proportional to the benefits derived and the user's share should be collected through a uniform tonnage fee.

- B. There should be no general revenue funds expended for operation and maintenance of general cargo ports (except for a proportional amount for national defense needs).
- C. It is only fair that users directly benefitting from port improvements should be assessed for the majority of the costs of those improvements.
- D. Provisions should be made to equalize port users fees when U.S. cabotage laws come into play.

We appreciate this opportunity to share our feelings and thoughts with you. If you have any questions, please feel free to contact me. We look forward to working with you on this important legislation.

Sincerely,


Keith J. Bunting
Manager, Distribution
Government & Public Affairs

k kb

Prepared Statement

of

Raymond Sierra
Executive Vice President
Great Lakes District
International Longshoremen's Association, AFL-CIO

Mr. Chairman and Members of the Committee:

My name is Raymond Sierra. I am the Executive Vice President of the Great Lakes District, International Longshoremen's Association, AFL-CIO. I am also the Business Agent of Local #1969, Great Lakes District, International Longshoremen's Association, AFL-CIO, Port of Indiana.

I come before you representing people which have a vested interest from many years of employment in acquiring livelihoods for themselves and their families from our Great Lakes Ports.

Today's hearings indicate a continued Governmental desire to impose a system of user fees on our maritime industry in an attempt to recover costs associated with port development and maintenance. In light of this, I am here to request that your Committee give careful consideration to the unique competitive posture and operating conditions of our nation's Fourth Seacoast.

The Great Lakes have not been the stepchild of our nation's maritime policy, as stated by several of our Western Great Lakes Representatives, rather we are an orphan.

It is critical that we protect and preserve the Great Lakes International and domestic trade routes in order to ensure the economic viability of this region by assuring competitive transportation mode options for our agriculture and manufacturing industries, their consumers, and our national defence requirements.

If user fees are imposed, then at a minimum they should be fairly and uniformly distributed among all the ports so not to add an inequitable burden on the already financially-strapped states and their local communities which have contributed to the

Seaway tolls for 25 years. Uniformity is a necessity. Great Lakes Ports can only survive with user fees as long as those fees are no more or less than that of any other coastal range.

Further consideration must be given to the unique maintenance and operating requirements of connecting channels, locks and harbors as well as the existing binational treaties between the United States and Canada which govern the use of the Great Lakes waterway system.

The Federal system of maintenance operations should be continued to assure that these projects are not subject to the whims of any state, local or foreign governments and their interests. Our waterway system is the link that binds us all and has allowed our great nation to grow into the industrial and manufacturing giant that it is today.

Other issues that should be taken into consideration are the prospects of cargo diversion and the existing toll structure on the Great Lakes.

If user fees are to be imposed they must not be implemented in a manner to stimulate further diversion of cargo to foreign and certain domestic ports, thereby undermining and disrupting existing cargo patterns which have been developed over scores of years and have served our nation so well.

Unlike ports on the other seacoasts, vessels intending to service the Great Lakes must first come via the St. Lawrence Seaway - the only toll waterway on the North American continent!! The imposition of user fees on top of tolls, would create an additional

unfair tax, thus reducing the incentive, especially for our American flag ships who compete with foreign vessels whose operating cost are substantially below American standards, particularly those of third world nations, to service the lakes.

On November 21, 1983, the Council of Great Lakes Governors sent an urgent appeal to the President of the United States requesting the establishment of a special "maritime task force" whose responsibility would be to develop a comprehensive maritime policy in an effort to strengthen the U.S. maritime industry which is vital to the economy and the defense of our nation. This appeal has subsequently been endorsed by Thomas W. Gleason, President of the International Longshoremen's Association, AFL-CIO. This task force would be made up of Members of Congress, governors, the Administration and representatives of the maritime industry.

However, should such a task force be created, its mandate should include, as a matter of high priority, the examination of user fees and their effect on the Fourth Seacoast, particularly in view of its international uniqueness and the existence of current user fees in forms of seaway tolls. I trust that this committee will support such a mandate if such a special "maritime task force" is created.

I thank you for your consideration of my views and I wish you success in your endeavors on these important matters.

STATEMENT OF THE
NEW JERSEY MARITIME ADVISORY COUNCIL
FOR THE
SENATE ENVIRONMENTAL & PUBLIC WORKS COMMITTEE
S-1739

Mr. Chairman and members of the Committee, my name is Joseph T. Grossi and I am Executive Director of the New Jersey Maritime Advisory Council. This Council was established by the New Jersey Department of Commerce and Economic Development at the request of port interests to emphasize New Jersey's position as a Maritime State and support federal river and harbor projects which will benefit this region's overall economic viability. In essence the New Jersey Maritime Advisory Council wishes to assure that the natural assets of extensive shoreline and access to ocean routes with which the State of New Jersey has been endowed are developed and used in the best interest of our region and the Nation.

The Maritime interests represented by this Council have numerous concerns with the placement of **user fees on waterborne commerce**, since the true user is the entire national populace and not the Maritime Industry. The imposition of user fees on presently constructed channels could have a significant effect on the port areas in and around the State of New Jersey. User fees could also cause a shifting of trade patterns, both nationally and internationally. For example, cargo presently shipped and received from U.S. ports could be moved to Canadian ports to escape the additional changes brought on by user fees.

With this in mind we applaud your committee's work in arriving at legislation representing a compromise among the strongly held views in the Senate and are particularly pleased that the Committee reported a bill that returns the federal responsibility for maintenance work. The provisions of this bill to speed up the permitting process are also welcome and necessary in any port development legislation and a clear signal of the Committee's commitment to seek enactment of a port development bill by the end of the year and end the stalemate we have seen in water project authorizations. The Environment and Public Works Committee has the support of the Council toward that end.

However, there are aspects of this legislation which concern the members of this Council. The following are raised for your consideration:

The concept of a commission is generally good but its composition should include port users and we would like its mandate to be broadened to first determine whether cost-recovery on maintenance is a wise policy, and then make recommendations to Congress.

We believe it unwise to place a cap of \$350 million on annual O&M spending particularly if it is retained pending congressional action on the advice of the commission. If the committee is intent on setting a cap, let the cap be in effect only as long as it takes the commission to make its report to Congress. Based on the performance of Congress, we could be faced with rigid ceiling on O&M spending for a decade before Congress finally acted on a new channel maintenance policy.

The requirement of 100% local costs for projects deeper than 45 feet is unreasonable and should be amended to require at worst equal sharing of project costs. As for the favorable provisions given the Baltimore channel project, (30% local share), we would suggest that Congress adopt one policy to be applied to all ports in the spirit of the Constitution. We would welcome the 30% provision.

The bill does not authorize projects deeper than 45 feet, however those projects, proposed and future ones, will not all be starting from a depth of 45 feet. Consequently, in the legislation, such projects are not eligible for federal cost-sharing for the project portion down to 45 feet. It is recommended that such projects that are otherwise eligible be authorized.

As for the permitting provisions, the two-year permit process would be a welcome change to the present system, although we would urge even speedier treatment by the federal agencies. Two definite improvements we would suggest include requiring the appropriate federal agencies to participate in a consolidated process and adding some mechanism, perhaps automatic permit approval, which would make the two-year goal more enforceable.

The greatest concern with this legislation is the limitation on local fees. Ports do not want to make it more expensive to operate in their harbors. New charges in a port would be assessed only where absolutely necessary and in a way that would keep that port competitive. This is particularly true today when the ocean shipping business is in particularly bad financial condition and port competition is greater than ever before.

The federal funding of navigation projects has always been dependent on favorable benefit-cost ratio which take into account all beneficiaries over a long term. Indeed, this legislation authorizes projects on the basis of that analysis. It is therefore illogical and inequitable for the legislation to apply a different standard, such as the direct beneficiary requirement, to the local share.

The direct beneficiary rule for the assessment of user charges promises to make it very difficult if not impossible for project costs to be recovered through user charges. Rather, the legislation should allow maximum flexibility to the non-federal entity to assess reasonable port-charges as the specific situation warrants.

This Council supports the work of the Committee, its chairman and ranking members in their efforts to produce port and water resources legislation to benefit our Nation's port system and would like you and your colleagues in the Senate to continue to advance the water resources legislation to the Senate floor and then the conference committee this year. If your colleagues follow your lead we will finally see legislation become law in 1984.

STATEMENT OF STEPHEN HINIKER

EXECUTIVE DIRECTOR
RIVER COUNTRY VOICES
214 North Henry Street
Madison, Wisconsin 53703

before the Water Resources Subcommittee
Hearings on S-1739

January 25, 1984

Mr Chairman, I appreciate the opportunity to present the views of River Country Voices on S-1739. River Country Voices is a coalition of sportsmen, conservation and recreation organizations based in the vicinity of the Upper Mississippi River. River Country Voices serves to educate member groups and individuals of issues affecting the quality of the natural environment of the Upper Mississippi River and to promote sound legislation affecting the Upper Mississippi.

The Upper Mississippi River Basin is one of the America's greatest natural treasures. As it makes its way past the metropolitan Twin Cities area down to St. Louis, the river is host to innumerable waterfowl staging sites, a home for several endangered species including our nation's emblem, the Bald Eagle, and fantastic sport and commercial fishing areas. Fully 75% of the nation's migratory waterfowl depend on the wetlands in the backwaters of the Great River. Sportsmen and birders from all over the country come to enjoy the avian spectacle annually during migration. Fishermen enjoy the productive waters of the river year round. So popular is this area in America's heartland that nearly twice as many people visit the Upper Mississippi to appreciate its natural values as visit Yellowstone National Park. More than one and a half billion dollars of revenue are generated annually through the tourist industry based in the Upper Mississippi River Basin. Yet, the natural heritage of the Great River is threatened by a number of factors, including increased commercial navigation on the River. The threats posed by commercial navigation are dire and well documented. At stake is the important tourism industry based on the natural values of the river. Threatened as well is the quality of life for Midwesterners who will be faced with the loss of prime recreational opportunities in their own backyard. We are concerned that federal subsidies for the barge industry will exacerbate these threats at the expense of taxpayers who are most concerned about the fate of this priceless resource. Unless full cost recovery for navigation maintenance and improvements is realized, we will witness an increase of navigation that we feel is not economically sound. That bill will be paid by taxpayers who are not willing to subsidize the destruction of their environment for projects that are not economically justifiable.

Subsidies for the barge industry to build larger facilities such as a duplicate lock at lock and dam number 26 will result in more traffic upstream. It will also place more pressure for the government to subsidize further increases in locking capacity upriver as the so-called "bottleneck" moves north. According to the Report of the Secretary of Transportation on the Inland Waterway Revue Act of 1978 (February, 1982) commercial navigation tonnage will increase by 59% by the year 2000 if there are no cost recovery measures instituted such as a system wide fuel tax. Such an increase would have far ranging effects on the quality of the river in three areas: 1) Ancillary Development, 2) Water Quality, and 3) Loss of Wildlife.

Ancillary Development

Increases in commercial navigation will result in the creation of new barge fleeting areas that can have major impacts on the quality of the river's environment.

Barge fleeting can significantly conflict with other uses and values of the river. Problems associated with barge fleeting include loss of habitat as wetlands are dredged or disturbed. Barge fleeting also contributes to shoreline erosion when trees are used for mooring and are uprooted. Runaway barges cause safety problems downstream. Barge fleeting also usurps hunting and fishing sites as well as causing pollution problems when barges are cleaned at fleeting sites. Local residents complain of visual and noise pollution from barge fleeting sites. Far too often, sites are selected that compete with existing uses of the shoreline, pitting residents against barge fleeters.

Barge fleeting controversies have grown in recent years as more demands for sites result from increased commercial navigation. Vocal opposition has occurred recently in many cities and towns. Citizens of Prairie du Chien, Wisconsin have opposed harbor development at that river city because of the potential of new barge fleeting sites, increases in traffic that disrupt community activities and the adverse effects on local historic districts. This community-based opposition threatens to halt the harbor project despite the developer's claim that the residents will benefit economically from the project. Citizens of St. Paul have formed a coalition of civic, sportsmen and environmental groups to protect a heron rookery in Pig's Eye Slough (near South St. Paul) that is threatened by plans for barge fleeting. Opposition to a coal dock facility near Warsaw, Illinois has come from local residents who are concerned about an increase in coal shipments that would cut through a nearby eagle roosting area. More than 300 people attended a meeting in Marquette, Iowa to protest plans for a barge fleeting site directly adjacent to Pike's Peak State Park in Iowa. The numbers of such controversies will increase as commercial navigation increases and brings with it new demands for more barge fleeting sites. By subsidizing the maintenance of existing navigation structures and paying the bills for new navigation facilities, Congress is fueling these fires of discontent. By instituting user fees that cover the costs of new projects, Congress can assure citizens that only truly economically viable projects will be under

taken. Most citizens understand the need for commercial navigation but strongly resent the tremendous subsidies which lead to increased traffic that is not economically sound. If navigators had to pay for the use of the river and had to pay for the damage that they cause, there would be far fewer controversies arising.

Water Quality

Increased river traffic will result in increases in the amount of suspended solids in the river. Sediment accumulated in the main channel is combined with toxic substances that have entered the river upstream and settled down into the channel. Dredging activity resuspends these toxic substances and poses a danger to fish and to humans consuming these fish. Over 25% of the nation's fresh water commercial fish catch comes from the Mississippi, hence posing very real dangers to the general public.

Resuspending solids also destroys benthic organisms which are at the base of the aquatic food chain. Ultimately this leads to a decrease in the river's productivity and a loss of valuable commercial fishing enterprise. When fish are poisoned, the toxics are passed on to waterfowl which consume the fish, resulting in decreased hunting and bird watching opportunities.

Tows of barges are currently moved by tugs of up to 5,000 horsepower. The propwash from the passage of such tows stirs up sediment that takes several hours to resettle on the bottom of the river. This stirred up sediment literally buries benthic organisms, thus decreasing biological productivity of the river. An increase in the number of tows has an additive effect on the recovery time for settling of the suspended solids. Increases in the numbers of tows over a given area prolongs the time before sediments are redeposited, creating greater water quality problems. The increase in river traffic as a result of subsidized navigation maintenance and improvements will definitely exacerbate a problem that already exists.

Loss of Wildlife

One of the most significant factors that increased commercial traffic will have on the river is the accelerated loss of wildlife and fish resources.

Since the dams were placed on the river over fifty years ago, the Upper Mississippi has drastically changed. The natural free flowing river environment was replaced by a series of pools that have slowed down the river's ability to cleanse itself. Instead of sediments being quickly transported to the Gulf, they are now stored behind the dams in quiet slack-water pools. This has led to severe sedimentation problems along the river.

The dams that slowed the cleansing rate of the river also created thousands of acres of biologically productive wetlands. These wetlands are essential to the fish and wildlife resources now found on the river. Yet, the "Catch-22" of the alteration of the river is that the same wetlands that the dams created are now being destroyed by the dams and the traffic that the locks and dams have made possible.

Since the construction of the dams in the 1930's the most biologically productive areas of the river system have been the victims of rapid sedimentation. Lake Onalaska, near LaCrosse, Wisconsin, took two weeks to flush the sediments out of its basin before the construction of the dams. According to soil conservation experts it now takes ten years for this process to complete itself in Lake Onalaska. The backwaters of the river are now filling in at a rate of up to 2 inches a year. Since the construction of the dams, approximately 25% of the open backwaters have filled in with sediments. The Environmental Work Team of the Upper Mississippi River Basin Commission's Master Plan Task Force reports that the rest of the backwaters will fill in within the next century - unless immediate remedial steps are taken.

Barge tows add to the problem of sedimentation. Each tow of 18 barges places as much as a ton of sediment per mile into adjacent backwaters. Upper river pools often see ten such tows pass each day during navigation season. Increased traffic will add to the problem.

Loss of the backwaters means loss of the habitat needed for 75% of the nation's migratory waterfowl. This translates into lost recreational opportunities in America's heartland and a decline in the important tourism industry in the Upper Mississippi River Basin.

Loss of backwaters also means loss of fishing opportunities for sport and commercial fishermen. Of course, this again means a lack of revenues in the basin.

These losses are coupled with the irreparable loss of aesthetic values along the Great River. An important part of America's heritage which Mark Twain described as "The great Mississippi, the majestic, the magnificent Mississippi" will be lost for future generations. They will never forgive those that took that priceless heritage from them.

We do not oppose all commercial navigation on the Upper Mississippi River. We realize its vital input into our economy. We ask only that commercial navigators make their investments based on their true costs of using this national resource. The river belongs to all of us, not just the barge owners. We urge the institution of complete cost recovery measures to help keep the river a multi-use resource.

STATEMENT OF FRANK DROZAK
PRESIDENT
SEAFARERS INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON WATER RESOURCES
UNITED STATES SENATE
WASHINGTON, D.C.

January 25, 1984

Mr. Chairman and Members of the Subcommittee:

My name is Frank Drozak. I am president of the 80,000 member Seafarers International Union, AFL-CIO representing merchant seamen engaged in a broad range of maritime jobs. SIU members crew deep-sea vessels in the international and domestic coastal trades as well as ships on the Great Lakes and, inland and coastal tugs, tows, barges, and dredges.

We appreciate the opportunity to submit our views on port development to this Committee. We feel grave concern that SIU members will be adversely affected by any increase in user fees at

this time. We feel strongly that the benefits of user fees are far outweighed by matters of fairness and economic welfare.

The Seafarers International Union appreciates this Committee's recognition that the problems of our water transportation system must be addressed and solved. We do not have a clear government policy on water transportation issues. We are hopeful that these hearings and those taking place on the House side will contribute to a clear national policy.

We intend to limit our remarks on S. 1739 to Titles V and X which address navigation projects and cost sharing.

On the issue of port development, we are in complete agreement with those who favor improving our port facilities. It makes sense from both a defense and an economic point of view. As international trade has come to make up a greater percentage of the United States gross national product, properly maintained ports play an increasingly important role in the rapid movement of goods to and from our nation. It is essential, therefore, to keep our ports operating efficiently and to ensure that they are well maintained. As we have stated in the past, port development must not be pursued independent of the rest of the nation's water transportation system.

The United States has lagged behind in port development. We agree with the many diverse interests engaged in American international commerce that it is critical that U.S. foreign trade be able to move easily in and out of our ports. One way to do this is to improve our ability to handle cargoes, at their point of entry or exit through our ports.

Title V authorizes no more than \$646 million of general revenues and Inland Waterways Trust Fund monies to be used each year, for the next 14 years, for the construction, operation and maintenance of commercial navigation projects and components of the inland waterways system. If additional money is needed in any year to achieve those tasks, user fees are to be collected. While we feel that these construction projects would help facilitate inland barge transportation, we are concerned that the funding ceiling is not indexed for inflation and that the maritime industry may have to pay user charges for the excess costs in addition to the fuel tax which was instituted in 1978.

Congress has attempted to solve the water resources dilemma for several years. Many navigation structures are long overdue for rehabilitation and replacement. It is in the national interest that the present stalemate be resolved for reasons of defense readiness, an improved trade picture, and safety. Congressional approval of water navigation projects will also

provide substantial employment prospects in the maritime industry, which as this Committee knows, is in dire straights.

Title X of S. 1739, among other things, authorizes projects for deep draft channel improvements and establishes a National Commission for Harbor Maintenance to examine the issue of harbor O&M financing, and mandates that the Commission make recommendations to the Congress on the "annual and long-term costs of maintaining the Nation's harbors...for the sharing of the costs by non-Federal interests and the means by which to recover such non-Federal share." This wording troubles me. It makes the basic assumption that the answer to the maintenance question is to be found in the assessment of user fees. In fact, we believe the premise ignores the need for fairness in the assessment of charges by failing to identify and levy the true beneficiaries of adequately maintained harbors.

The Seafarers International Union recommends that the Commission thoroughly study all of the alternatives for O&M financing. We oppose any increase in user fees until the full effect of such a proposal is understood completely.

This Commission, which consists of the Secretaries of the Army, Transportation and Treasury, and the Special Trade Representative, is to be assisted in its work by an 11 member

Shipping Advisory Board, made up of representatives of large and small ports, U.S. shippers and carriers. We think the establishment of this industry Advisory Board will help the Commission to carry out its mandate. We would like to recommend, however, that the membership of the Shipping Advisory Board be expanded to include at least one member representing shipboard labor. The inclusion of a labor representative will at least provide that all affected industries have input on the cost recovery issue.

We would also recommend that the Board report directly to the Congress as well as to the Commission to ensure that their recommendations receive full consideration by those who enact the legislation.

We feel some concern about the \$350 million annual cap imposed on deep draft channel maintenance until such time as the Commission makes its recommendations to the Congress. While it is the Committee's expectation that this sum would be sufficient to adequately maintain harbors for at least two more years, we recommend that the \$350 million be indexed to the inflation rate to avoid unfairly penalizing the ports, carriers and shippers should the Congress fail to act on the Commission's recommendations within two years.

We have a number of other concerns in Title X. Title X gives local ports a great deal of latitude in recovering financial obligations incurred under S. 1739. We share the concern of many in the U.S. carrier industry that if each port individually establishes the type of fees it sees fit, the industry will be confronted with the possibility of paying fees at each port as well as conflicting rates. An issue of this magnitude should not be left for local ports to solve. We urge this Committee to review this particular section of the bill and develop an appropriate mechanism for developing user fee rates.

Title X also mandates that "direct beneficiaries" pay 80 percent of the user fees collected. However, of grave concern, to us is the discretion given to local ports to define the user who benefits directly. Because of the potential of abuse by local ports, we recommend that the Committee suggest specific language and guidelines for setting local user fees. As it stands now, vessels not directly benefitting from channel deepening would have to help defray costs through payment of local port user fees. This means that, tugs, barges and liner vessels may be compelled to pay up to 20 percent at some ports for deep channels which they do not need. We question the logic of non-beneficiaries paying even that amount.

While we applaud S. 1739, in concept, we believe significant fine tuning is necessary to develop an efficient system for the movement of goods in both the domestic and foreign trades. This will not be achieved by patchwork proposals and temporary solutions. It will be realized by legislation which effectively addresses every sector of the economy and provides opportunity for all modes of transportation to develop and expand in the decades ahead.

We would respectfully suggest that the Committee take a closer look at H.R. 3678, which was introduced by Congressman Robert Roe and unanimously reported by the House Public Works and Transportation Committee. The SIU believes that this bill benefits just about every aspect of commercial navigation. H.R. 3678 will build badly needed locks without increasing user fees. It will also modernize and deepen many coastal ports and provide additional work for dredge operators for the deepening and maintaining of these new projects. We are hopeful that solutions can be found soon so that navigation related projects can proceed rapidly and further augment the attractiveness of low cost, energy efficient water transportation.

There are still 9.4 million workers without jobs. The authorization of these port projects will create thousands of jobs in the construction, public works, and maritime sectors of the economy. Unemployment in these areas remains at record or near record highs. We would appreciate the Committee's recognition of this fact and actively work toward achieving full economic recovery.

Thank you very much.

STATEMENT OF SPENCER BLACK
ASSOCIATE MIDWEST REPRESENTATIVE OF THE SIERRA CLUB

Mr. Chairman:

My name is Spencer Black and I am Associate Midwest Representative of the Sierra Club. The Sierra Club is a national organization of more than 350,000 members dedicated to the protection of our nation's natural resources.

I would like to commend the Chairman and the members of the Subcommittee for holding hearings on title V of S. 1739. This title will have a major impact on the rivers of the Midwest which are one of the most valuable of our region's natural assets. The Mississippi River and several of its major tributaries, including the Illinois, the Ohio and the Missouri, are included in the nation's inland navigation system.

The rivers and adjacent lands constitute our most important wildlife habitat. Rivers provide the greatest recreational opportunities for the people of the Midwest. We look to our rivers to provide the quality and quantity of water essential to our economy.

S. 1739, as reported by the Senate Committee on the Environment and Public Works, would provide a subsidy for the inland navigation system of as much as \$646 million a year until the end of this century. Even when the inland waterway user fee reaches 10 cents per gallon in 1985, approximately 90% of the cost of operation and maintenance, reconstruction, and new construction of the system will still be borne by the taxpayers and not by the beneficiaries of the system.

The concept of a cap on the amount taxpayers must spend to support Corps of Engineers expenditures for inland navigation is a good one and we appreciate the work of the subcommittee members in developing this approach. We also appreciate the fact that Title V treats Corps expenditures comprehensively, considering operation and maintenance costs as well as construction costs. However, the fact that the beneficiaries of these expenditures will only be paying 10% of the costs is not acceptable.

A great deal has been said about the competitive inequity and economic inefficiency which results from these high subsidy levels. Today, I would like to address another consequence of navigation subsidies - the grave environmental consequences of increased barge traffic. Subsidies of the magnitude provided for in S. 1739 induce artificially high levels of use of the inland navigation system. Because such a significant portion of the costs of waterway transportation are picked up by the taxpayer, barge transportation costs are comparatively low. Consequently, barges attract commerce which would more rationally use other transportation modes.

The artificial diversion of commodity shipments to the river systems has resulted in severe environmental impacts. The passage of barge tows damages wetlands and productive backwaters, destroys fish and wildlife habitat, increases stream bank erosion, and reduces opportunities for recreation.

Unfortunately, consideration of the environmental impact of navigation is often limited to the immediate vicinity of new construction projects.

This is unfortunate because the systemic impacts of increased barge traffic levels are ignored. I would like to illustrate how barge traffic levels affect water quality, wildlife habitat and recreational opportunity by referring to environmental problems on three Midwestern rivers.

Lower Des Plaines River

In 1978, Commonwealth Edison Co. of Illinois conducted a unique study of the effect of barge traffic on water quality. For 4 months of that year, the Corps of Engineers closed some locks on the Illinois waterway for repair. Commonwealth Edison's Operational Analysis Department monitored a 5 mile stretch of the Lower Des Plaines River to compare water quality indicators before, during and after the closure to navigation.

That study found that the dissolved oxygen levels, chemical oxygen demand, suspended solids concentrations and turbidity were all substantially improved during the no traffic period, but then were degraded again when barge traffic was resumed.

According to the report ("Conditions and Trends in Water Quality in the Lower Des Plaines River" by B.B. Ewing and E.D. Brill, Jr.), "It is concluded that barge traffic does have an adverse effect on dissolved oxygen, turbidity and suspended solids due to the suspension of the accumulated organic sediments into the overlying water column."

Naples Barge Fleeting Area

Increased barge traffic is often accompanied by increased demand for support facilities such as terminals, barge fleeting areas, and flood control development. Barge fleeting, in particular, has been the focus of a number of recent conflicts on a number of rivers in the past several years.

One recent conflict illustrates how barge fleeting can affect recreational opportunity. The Naples Terminal Company was recently granted permits to fleet 380 barges along a 7 mile stretch of the Illinois River. The Naples facility is located on a stretch of the Illinois River just south of the Meredosia National Wildlife refuge and north of the Pike County Conservation District. This region is one of the most isolated and environmentally sensitive portions of the river. Because of the beauty of the river and its value as a sport fishery for a wide variety of fish, it is important to many residents of the area as a place to fish, hike and observe birds (especially the bald eagle).

The operation of the barge fleeting area will negatively affect aquatic communities, mussel beds, and waterfowl habitat. The barge fleeting area is an important fish spawning habitat. Turbidity caused by the fleeting operation will be lethal to susceptible fish larva. Several important mussel beds will be covered by sediment and many varieties of mussels will be killed because of the increased sedimentation. Mussels serve as an important food source for birds, including bald eagles. In addition, the barges will present a barrier to the fisherman, recreational boaters and waterfowl hunters who presently use the area.

Upper Mississippi River

The Upper Mississippi River is recognized as a nationally significant ecosystem. It contains two major National Wildlife Refuges (the Mark Twain NWR and the Upper Mississippi River NWR) and provides habitat for hundreds of species of birds, fish, mammals and amphibians. Increased barge traffic has already reduced the quality of this valuable wildlife habitat and threatens to cause even greater harm in the future.

In 1978, Congress mandated a comprehensive master plan for the management of the Upper Mississippi River System (UMRS) (P.L. 95-502). An important study used to develop that plan was conducted by the Environmental Studies Work Team. Their findings were attached to the Master Plan (Appendix D).

They concluded that "The movement of existing levels of commercial navigation through the UMRS has significant physical and biological effects on the resources of the system. These effects are greatest in areas that have a narrow channel width, large sinuosity, short distance between sailing line to bank, frequent dredging requirements, high erosion potential and large sediment inflow to side channels and backwater areas. These effects continue in other areas as well. . . . Increased levels of navigation will increase the magnitude of the physical effects - particularly turbidity, the resuspension of bed materials, the erosion of streambanks and the inflow of sediment into backwater areas. In effect, the high rate of existing filling in of the backwaters will be increased further by increasing levels of navigation traffic especially during low flow periods."

The Environmental Studies Work Team further concluded "If current levels of navigation activities and the present rate of sedimentation in non-main channel areas is allowed to continue, most of the open water areas of the backwater lakes will become marshland with the next 50 year or dry land within the next 100 years. The result will be a significant reduction in aquatic habitat quantity and the diversity and productivity of fish and wildlife species associated with the habitat."

Mr. Chairman, I have chosen only three examples of the damage to rivers in the Midwest due to navigation, but there are many more. These are problems caused not by new construction, but by increased traffic levels on already constructed sections of the inland navigation system. These traffic levels are encouraged not by the marketplace, but rather by massive federal subsidies.

The Sierra Club urges adoption of an amendment to S. 1739 which would require the users of the inland waterway system to pay for all the costs of the operation and maintenance, reconstruction and new construction of the system. The imposition of user fees at a level sufficient to recover for the federal government 100% of the costs of the system will lead to barge traffic levels which will be less damaging to our environment.

TESTIMONY OF

VERA PAKTOR, EXECUTIVE DIRECTOR

UNITED STATES GREAT LAKES SHIPPING ASSOCIATION

Good morning. My name is Vera Paktor. I am here today as Executive Director of the United States Great Lakes Shipping Association, the oldest and today the only trade organization representing most of the vessel owners and operators engaged in the international Great Lakes trades. Our members serve ports throughout the Great Lakes, linking our industrial/agricultural Midwest with distant world markets.

I am pleased to be here this morning to comment on Title X of S. 1739, and to share with you some of my industry's concerns about the continued deterioration of international Great Lakes shipping.

We believe that the provision of Title X which establishes a National Commission on Harbor Maintenance and the Shipping Advisory Board has the potential of shedding much needed light on the issue of National Waterway User Charges and hope that the Commission and Board together will indeed help the Congress resolve this very controversial issue in a way which will benefit both the national interest and the shipping community.

We hope, too, that very special attention will be focused on the Great Lakes during the Commission's two year investigation so that the unique nature of our system's circumstances can be sufficiently included in the Commission's deliberations and recommendations.

I noted with interest language on page 93 of the Committee Report on S. 1739. In referring to the 11-member Shipping Advisory Board there is a provision for "...representation from the various ports--both large and small and representing all coasts and the Great Lakes..." (my emphasis). I noted this language with interest because it set the Great Lakes apart from the rest of our nation's deep water system, even though the Congress itself, through legislation adopted in 1970, declared the Great Lakes to be the nation's Fourth Seacoast. Fourteen years later, we in the Great Lakes are still suffering the same stepchild status we suffered prior to the opening of the St. Lawrence 25 years ago.

We are hopeful that the Commission and the Shipping Advisory Board, in studying the nature of the U. S. Shipping industry, will focus a great deal of attention on the waterway user charge we in the Lakes have paid since the opening of the St. Lawrence Seaway system. Called Seaway Tolls, they have been used toward repayment of original construction and current maintenance costs--a unique situation as users of the Great Lakes/St. Lawrence Seaway are the only waterway users in the U. S. who have had to pay a very large price indeed for using a major federal waterway. We continue to pay tolls today at rates which are so steep and render our steamship companies so uncompetitive that their continued collection seriously threatens the very survival of the international shipping

industry--and the shore side industries whose existence depends on ship traffic.

During the 1983 shipping season which ended only last month, our member steamship lines paid more than \$95,000 in tolls on one ship making one voyage into and back out of the Great Lakes. This is not a unique figure. It is not an inflated figure. This is what it costs to sail a 730 foot, 22,000 GRT (Seaway size) ship loaded with 25,000 metric tons of general cargo on the inbound and 25,000 metric tons of grain on the outbound voyage.

GENERAL CARGO - INBOUND

- 25,000 MT cargo @ \$2.56/MT	\$64,000.00
- 22,283 GRT weight of ship @ .15/RT	3,342.45
- Welland Canal lock charges	
@ \$250.00/lock	<u>2,000.00</u>
* Total Inbound Toll	\$69,342.45

GRAIN - OUTBOUND

- 25,000 MT cargo @ .83/MT	\$20,750.00
- 22,283 GRT weight of ship @ .15/RT	3,342.45
- Welland Canal lock charges	
@ \$250.00/lock	<u>2,000.00</u>
* Total Outbound Toll	\$26,092.45
 * TOTAL SINGLE ROUND TRIP TOLL	 \$95,434.90

It's the kind of expense which steamship lines calling at tidewater ports have never had to pay. It is one of the major reasons responsible for the dramatic decline of international Great Lakes shipping. In 1977 there were more than thirty (30) international carriers regularly serving Great Lakes ports. Today there are less than half as many. Our own American-Flag steamship industry has abandoned our ports. But who can blame them? In an industry where we count our profit in pennies, why pay a \$90,000+ toll if you can avoid it by calling at tidewater ports?

We are hopeful that Seaway Tolls will soon be eliminated and recommend that they be replaced by a Nationally Uniform User Fee to be based on cargo value. We strongly recommend that S. 1739 mandate the opening of bilateral negotiations between the U. S. and Canadian governments so that an agreement on tolls elimination may be reached during the Commission's and Shipping Advisory Board's two year investigations. Should tolls not be eliminated by the end of the two year period provided by Title X, we recommend that the Commission suggest that replacement of Seaway Tolls by the National Waterways User Charge be included in forthcoming legislative proposals.

In conducting its deliberations, we also would direct the Commission to pay serious attention to the type of pay back mechanism it proposes. Again, because of its unique nature, Great Lakes ports and midwestern industries could suffer

seriously if payback is based on a cargo tonnage rather than a cargo value basis. A large majority of tonnage transitting the Great Lakes/St. Lawrence Seaway System consists of low value, high weight bulk commodities such as coal, iron ore, limestone and grains. If these cargoes were to be assessed on their weight rather than their value, they could well be priced out of their markets by the time they reach the consumer. Highly valued general cargoes, the mainstay of tidewater ports, would be assessed in a way far more advantageous to the tidewater ports they transit.

Specific industries could be adversely affected by a tonnage based user fee. Midwestern steel producers would have to pay an inflated price for ore, coal and limestone being shipped to their facilities via the Great Lakes if each of these component parts of finished steel--all low in value but high in weight--were assessed on a tonnage basis. Their finished steel could cost significantly more to produce than foreign steel, and would be assessed again as the finished product is shipped from a midwestern port to its final market. Finished foreign steel shipped from Belgium, for example, to New York would be assessed once, upon reaching New York harbor. The steel produced in Youngstown, Ohio would have been assessed three or four times by comparison.

In addition to evaluating the potentially harmful impact of a tonnage based user fee, we hope the Commission and the

Shipping Advisory Board also will study cargo shipping patterns before making recommendations. Unique in so many ways, the Great Lakes is also unique in the way steamship lines utilize it. A carrier coming into the Great Lakes from its overseas home port transits four of the Great Lakes and a number of rivers and connecting channels before reaching such major Great Lakes ports as Milwaukee and Chicago. It transits all five Great Lakes before reaching the Port of Duluth. It is likely to stop at three ports before emptying all of its holds of import cargoes. It is equally likely to call three different ports to load outbound cargoes. Unlike the ship which docks directly at tidewater ports (Miami, Boston, Houston, or Seattle etc.) our ships almost always make multiple calls. In designing the payback feature of National Waterway User Charge legislation it becomes critical to safeguard against a single ship and its cargoes being double or triple charged for passing through a number of Federally funded harbors on their way to their final destinations. Equally important will be the exclusion of connecting channels from the cost recovery formula.

Only if Seaway Tolls are eliminated and the factors we have touched upon are considered in shaping future user fee legislation will the Great Lakes win the equity it needs to legitimately compete with this nation's other coasts. Only then will we be able to shed our step-child status and equitably participate in the U. S. economy--both as contributor and beneficiary.

Thank you for this opportunity to share our views.

STATEMENT

OF

WILLIAM P. VERDON

VICE PRESIDENT AND GENERAL COUNSEL

UNITED STATES LINES, INC.

United States Lines, Inc. is headquartered in Cranford, New Jersey and operates one of the largest container transportation systems in the United States, with a fleet of 41 oceangoing U.S. flag cargo vessels, and approximately 44,000 containers and 19,000 chassis, serving over thirty-five ports on five continents. U.S. Lines serves U.S. ports on the East Coast, West Coast, Hawaii and the territory of Guam. In 1983 our fleet made approximately 1300 port calls at twelve different U.S. ports. As a major provider of ocean transportation in the foreign commerce of the United States, U.S. Lines is among those companies on the front line as a beneficiary or victim of the Water Resources Development Act of 1983.

United States Lines applauds the Committee's efforts to enact the long-awaited and much needed port modernization program. However, we oppose the provision for 30% non-Federal contribution to new dredging projects up to forty-five feet currently contained in S.1739. We solidly support the House version of the bill (H.R. 3678) which provides full Federal funding for dredging up to forty-five feet.

The cost of dredging port channels is, historically and rightfully, a responsibility of the Federal government. If the current version of S.1739 is allowed to stand, non-Federal contributions would probably be financed by some form of user fees. That drastic change in the status quo would be disastrous for the maritime industry at this most financially troubling time in the industry's history, and would produce a negative impact on the U.S. economy as a

whole. Historically the Federal government's full participation in dredging projects has been recognition of the benefits to the entire nation of the U.S. port system. We believe that these benefits to the nation continue unabated. Indeed, as the world economy gets increasingly more competitive, adequate and cost competitive U.S. ports become increasingly necessary as a U.S. export tool.

The results of the study recently completed for the Commerce Department's Economic Development Administration, dated September 16, 1983 and entitled Economic Effects of Levying a User Charge on Foreign and Domestic Commerce to Finance Harbor Maintenance, are incredibly telling. That study concluded that the first industry group to be adversely affected by user fees would be water carriers. Water carriers would experience substantial declines in business sales. This decline would quickly be felt by the first tier of suppliers of services and goods, which would result in further declines of employment and incomes for the work forces and owners of these impacted industries. The multiplier effect would then be felt beyond these impacted industries.

Even more importantly, the study demonstrates that port user charges do not result in a corresponding increases in government revenues or savings to the government. In the study's model, a user charge of 25¢ per ton would generate \$337 million in federal revenues. The bad news is that it would also destroy 10,000 jobs, cause an immediate \$2.1 million-ton cargo loss in U.S. waterborne trade, and result in lost income of approximately \$260 million. In addition,

state and local income tax revenues would decline by \$67 million, federal customs revenues would decline by over \$12 million, and the U.S. balance of trade would suffer by an additional \$56 million.

U.S. Lines submits that the conclusions and evidence produced in the EDA report show that user fees would be largely counter-productive to the nation's best interests. The value of appointing a National Commission on Harbor Maintenance as is currently called for in S.1739 is highly doubtful in light of the findings of the EDA study. Clearly the maritime industry can ill-afford user fees. Clearly our exports and export industries can ill-afford user fees. Should they be implemented, a new round of maritime bankruptcies and contractions in the number of ports served is highly predictable. Increased diversion of cargo from U.S. ports to ports with little or no user fees in Canada and Mexico would be inevitable.

The port specific approach contained in S.1739 to any required non-Federal contribution is preferable to a Federal fund approach, although, as we have stated, we are adamantly opposed to user fees. As drafted in S.1739, however, the non-Federal contribution might be unfairly imposed. Under no circumstances should legislation permit any charge to be based on the value of cargo. This method would result in an imposition against liner carriers of charges at rates about 100 times greater than against bulk carriers, and would constitute in effect a subsidy of bulk carriers by liner carriers. Value based charges bear no relation to the principle that those that require dredging should pay for

it. Some large bulk carriers like coal colliers need deep-draft channels of 45 to 55 feet. Liner operators, however, use vessels which draw less than 40 feet. Under no circumstances should liner operators be required to contribute to dredging at these deeper 45 to 55 foot levels. The provision in S.1739 that if any fees are collected, no less than 80% will be assessed on users that benefit directly is vague. It appears that under this provision 20% of the fees for deep draft channels (45 - 55 feet) could be assessed against liner companies which do not need or use this depth. And such a depth is particularly costly to dredge and maintain thereafter. We also think that if any non-Federal contribution is required, the law ought to clearly require that government owned vessels bear their proportionate share of the cost of dredging.

With respect to the channel dredging projects included in S.1739, U.S. Lines believes that the Arthur Kill project was inadvertently left out and U.S. Lines, together with the City of New York and the Port Authority of New York and New Jersey, strongly support inclusion of this project in S.1739.

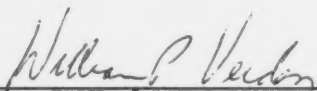
The Arthur Kill waterway between Staten Island, New York and New Jersey is the approach to Howland Hook Marine Terminal, New York City's largest container facility and U.S. Lines' home port. The growth and continued efficient operation of Howland Hook Marine Terminal is fully dependent on the Arthur Kill dredging project.

S.1739 already contains authorization for the Kill Van Kull and Newark Bay channel dredging project, adjacent waterways to the Arthur Kill serving terminals which are

competitive with Howland Hook Marine Terminal. If funded, the Arthur Kill project is scheduled to be completed just after the Kill Van Kull and at about the same time as Newark Bay. The Army Corps report recommends that \$55,000,000 in federal funds be authorized to widen and deepen the Arthur Kill channel to forty-two feet.

Deepening to forty-two feet is required because the channel as it now exists is only thirty-five feet deep at low tide, and U.S. Lines, the tenant at Howland Hook Marine Terminal, is expanding to build and acquire sixteen (16) large new containerships over the next two years which will require forty feet at low tide. This expansion will be a great benefit to the U.S. flag merchant marine, the U.S. shipping public, and the U.S. national defense. Without the Arthur Kill project, the usefulness of Howland Hook will be severely and critically compromised and the efficient deployment of vessels will be crippled.

U.S. Lines, therefore, asks that the Arthur Kill project be included in S.1739 on a contingent basis subject to approval of the final report by the Chief Engineer of the Army Corps.



William P. Verdon
Vice President and General Counsel
United States Lines, Inc.



WATER RESOURCES CONGRESS

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STATEMENT OF THE WATER RESOURCES CONGRESS
 BEFORE THE SUBCOMMITTEE ON WATER RESOURCES
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE
 WASHINGTON, D. C.

January 24, 1984

Mr. Chairman and Members of the Subcommittee:

The Water Resources Congress is a nationwide organization dedicated to the wise use and proper management of our water resources. We are an umbrella association concerned with all the multiple-benefits from water resource development. Our association traces its beginnings to the early 1900's when we were known as the National Rivers and Harbors Congress and the Mississippi Valley Association. These two water-oriented organizations later merged and formed Water Resources Congress.

On behalf of our membership, which is spread from coast to coast, we thank you for permitting us to submit this statement concerning S. 1739, the Water Resources Development Act of 1983.

We commend you, Senator Abdnor, and the members of your Subcommittee for the many hours of hard work you have spent searching for solutions to the water resource development stalemate along our inland waterways, where we have witnessed the decline of our especially once flourishing navigation system, not only in terms of floating plant, but in river structures old in service and in need of facelifting, replacement and in some instances new construction.

While the need to rebuild our inland waterways system is evident, the solutions leading to authorization and financing of navigation related projects are difficult to find. It is particularly difficult to uncover those leading to an equitable cost-sharing formula which the inland waterway industry can afford.

The Water Resources Congress feels very strongly that S. 1739 raises more questions than it answers and before a long-term, high-impact piece of legislation like this is adopted, serious consideration must be given in advance to several critical concerns. We hasten to add that new authorizations are overdue, but believe it is essential to move very carefully into legislation with such major policy and economic implications as S. 1739.

These specific questions must be addressed before long-term policy changes are made:

1. Do the dollar amounts contained in S. 1739 reflect the absolute minimum level of federal interest and participation in inland waterways with huge additional amounts to be raised from the users, or is the \$646 million the maximum total the government will permit to be spent whatever the source?
2. What are the provisions for developing waterways with little or no traffic currently moving?
3. Where are the mechanisms for determining the obvious public values in making spending decisions?

There is much merit in moving toward a system of financing inland waterway projects with some non-federal dollars. However, if non-federal interests are to pay more, they must have statutory provisions for deciding how the money is spent.

Perhaps, a user board, combined with appropriate federal interests, should determine the proportion of values and benefits before proceeding directly into new cost sharing practices.

Meanwhile, Water Resources Congress urges authorization of the most critical of the deserving projects such as the 2nd lock at Lock and Dam 26, Gallipolis Locks and Dam replacement, Bonneville Lock and Dam, and Oliver Lock and Dam replacement so that the economic recovery is not hindered and the major national waterways are relieved of their most troublesome, unsafe and expensive bottlenecks. The industry could, as a sign of good faith in the future sharing of system expenses, agree to pay 10% or 15% of the cost of those critical waterway projects from

the Inland Waterway Trust Fund during the term of construction.

We could certainly agree to the engineering and economic efficiency and effectiveness of such critically needed investments and, as such, they should no longer be held hostage by the complicated process of developing major new policy.

WRC would happily participate to the degree necessary to expedite both the resolution of policy questions and the construction of the first tier of projects to be determined critical to the economic recovery of one of the major transportation modes in this country, and the energy efficiency, trade development, environmental quality, national defense and regional development dimensions they would bring.

If S. 1739 must be passed now, WRC suggests it be amended to incorporate the suggestions contained in the testimony of the National Waterways Conference and others which we will not repeat here, but will summarize:

1. If a cap is adopted, exempt operations and maintenance as well as emergency functions.
2. Limit the imposition of such a cap to three or four years.
3. Give the User Board decision-making powers.
4. Include other public, non-federal interests such as Port Districts on the User Board.
5. Provide for retention of a Congressional role in project selection and levels of funding. Limit the overly broad discretionary powers of the Secretary of the Army.
6. Remove trust fund monies and other non-federal credits from the cap.

These amendments will go a long way toward making S. 1739 acceptable to the inland waterway clientele and the American producer/consumer as well.

If you need additional information or have any questions, Water Resources Congress will be happy to respond. Again, we appreciate the opportunity to participate in this sensitive and important hearing.

Thank you.

TESTIMONY OF
PACIFIC NORTHWEST WATERWAYS ASSOCIATION
REGARDING S-1739

BY

STEPHEN R. LINDSTROM, Executive Vice President

The Pacific Northwest Waterways Association (PNWA) appreciates the opportunity to comment on S.1739. As you may know, PNWA is a broad-based citizens' group supportive of the comprehensive planning and development of the water and related land resources in the Pacific Northwest and Alaska. Our fifty-year history includes the successful promotion of slack-water navigation on the Columbia/Snake Rivers System; port and trade development; agricultural and irrigation development; energy facility development; and, flood control and conservation efforts.

We commend you and the members of your Subcommittee for the time you have spent searching for solutions to the water resource development in our ports and along our inland waterways, where we have witnessed the decline of our once flourishing navigation system, not only in terms of floating plant, but in river structures old in service and in need of facelifting, replacement and, in some instances, new construction.

While the need to rebuild our inland waterways system is evident, the solutions leading to authorization and financing of navigation related projects are difficult to find. It is particularly difficult to uncover those leading to a new and equitable cost-sharing formula which the waterway and maritime industries can afford.

The PNWA feels very strongly that S.1739 raises more questions than it answers. Before a long-term, high-impact piece of legislation like this is adopted, serious consideration must be given in advance to several critical concerns. Although new authorizations are overdue, we believe it is essential to move very carefully into legislation with such major policy and economic implications as S.1739.

These specific questions must be addressed before long-term policy changes are made:

1. Do the dollar amounts contained in S.1739 reflect the absolute minimum level of federal interest and participation in inland waterways with huge additional amounts to be raised from the users, or is the \$646 million maximum total the government will permit be spent whatever the source?
2. What are the provisions for developing ports and waterways with little or no traffic currently moving?
3. Where are the mechanisms for determining the obvious public values in making spending decisions?

There is much merit in moving toward a system of partially financing inland waterway and port development projects with non-federal dollars. However, if non-federal interests are to pay more, they must have statutory authority to help decide how the money is spent.

Perhaps a user board with decision-making strength, working with appropriate federal interests, should determine the proportion of values and benefits before proceeding directly into new cost sharing practices.

Meanwhile, PNWA urges authorization of the most critical of the deserving projects such as the new lock at Bonneville Dam, second lock at Lock and Dam 26, Gallipolis Locks and Dam replacement, and Oliver Lock and Dam replacement, so that economic recovery is not hindered and the major national waterways are relieved of their most troublesome, unsafe and expensive bottlenecks. The waterway industry could, as a sign of good faith in the future sharing of system expenses, agree to pay 10% or 15% of the cost of those critical waterway projects from the Inland Waterway Trust Fund during the term of construction.

We could all certainly agree to the engineering and economic efficiency and effectiveness of such critically needed investments and, as such, all agree they should no longer be held hostage in the complicated and time-consuming process of developing major new policy.

PNWA would happily participate in expediting the resolution of policy questions and the construction of the first tier of projects to be determined critical to the economic recovery of one of the major transportation modes in this country, as well as the energy efficiency, trade development, environmental quality, national defense and regional development benefits they would bring.

If S.1739 must be passed now, PNWA suggests it be amended to incorporate the suggestions contained in the testimony of the National Waterways Conference and others which we will not repeat here, but will summarize:

1. If a cap is adopted, exempt operations and maintenance as well as emergency function.

2. Limit the imposition of such a cap to three or four years.
3. Give the User Board decision-making powers.
4. Include other public, non-federal interests such as Port Districts on the User Board.
5. Provide for retention of a Congressional role in project selection and levels of funding. Limit the overly broad discretionary powers of the Secretary of the Army.
6. Remove trust fund monies and other non-federal credits from the cap.

These amendments will go a long way toward making S.1739 acceptable to the inland waterway clientele and the American producer/consumer as well.

If you need additional information, or have any questions, PNWA will be happy to respond. Again, we appreciate the opportunity to contribute to the record of these proceedings.

Thank you.

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